

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, AUGUST 10, 2004
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:10 a.m.

Mayor Murphy announced that the passing of Council Member Charles Lewis weighed heavily on the hearts of the City and the Council, and because of that he would be taking things a little bit out of order today. Mayor Murphy stated that it was with great sadness that he would ask the Council to adjourn today's meeting in honor of their friend, his friend, and their colleague, Charles Lewis the III, Council Member of the City's 4th Council District who passed away on Sunday, August 8, 2004, at the young age of 37. Council Member Lewis was a San Diego success story graduating from Morris High School, and then receiving his Bachelor's Degree from San Diego State. He began his career as an Intern in the office of Congressman Jim Bates, and in 1991 he began working with Council Member George Stevens as a Field Coordinator, eventually becoming a Special Assistant, and then Chief of Staff in 1997. Council Member Lewis had many accomplishments while working for Council Member Stevens. He worked on housing concerns; public safety issues; the Malcolm X Library and Performing Arts Center; the Chollas View Housing Project. The people of his District loved him, and then elected him as their Council Member in 2002. After he was elected his accomplishments continued that benefited the City of San Diego, the residents and the businesses of the 4th District. Mayor Murphy wished to mention a few of Council Member Lewis accomplishments, and that they had worked together on creating the Graffiti Strike Force that increased Graffiti arrests in the 4th District and across the City. Council Member Lewis brought the City the "Safe Route to School" grants for traffic safety at Horton Elementary, and helped raise the money that will be the Skyline Hills Library. He brought the City the Coastal Conservancy Grant to improve water quality in Chollas Creek; secured funding for a new Skateboard Park in his district; and the Senior Center in Martin Luther King Park. He served as the Chair of the City/County Reinvestment Task Force, and opened the new Mountain View Recreation Center. Lastly, Mayor Murphy announced that Council Member Lewis accomplishments were for the people of San Diego, and were done out of dedication to the public, not out of any effort for personal aggrandizement. Council Member Lewis worked hard for District 4 and the City, and he earned the love, respect and admiration of the people he represented, as well as his colleagues. He felt a service to the public was a calling from God, and it was his utilization of the gifts he had to serve God faithfully. Mayor Murphy and each Council Member stated that Council Member Lewis would be greatly missed, and that they wished to extend their deepest and most heartfelt sympathies to his family.

The meeting was recessed by Mayor Murphy at 10:57 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 11:09 a.m. with all Council Members present and District 4 vacant. The meeting was recessed at 11:24 a.m. by Mayor Murphy to convene the Redevelopment Agency. Mayor Murphy reconvened the regular meeting at 11:32 a.m. with all Council Members present and District 4 vacant.

Mayor Murphy adjourned the meeting at 12:12 p.m.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council District Four-vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour (pr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present

- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council District Four-vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

ITEM-10: INVOCATION

Invocation was given by Reverend Gretchen Peña of Christ Church Unity.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Inzunza.

FILE LOCATION: MINUTES

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Comment by Don Stillwell suggesting that the Mt. Soledad Cross be a historical monument.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:40 a.m. – 11:43 a.m.)

PUBLIC COMMENT-2:

Comment by Barbara Howard suggesting that a Special Election be held to fill the vacancy in Council District 4.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:43 a.m. – 11:46 a.m.)

PUBLIC COMMENT-3:

Comment by Sandy Summers regarding domestic terrorism.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:46 a.m. – 11:50 a.m.)

PUBLIC COMMENT-4:

Comment by Joyceline Tarr regarding city spending and her suggestions to improve that.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:50 a.m. – 11:54 a.m.)

PUBLIC COMMENT-5:

Comment by Rebekah Eaves regarding Sister City relationships and the City of Yanti.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:54 a.m. – 11:57 a.m.)

PUBLIC COMMENT-6:

Comment by Sky Anderson regarding new leadership in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:57 a.m. – 11:59 a.m.)

PUBLIC COMMENT-7:

Comment by Muhammed Abdulah regarding the death of Margie Schoedinger.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:59 a.m. – 12:03 p.m.)

COUNCIL COMMENT:

None.

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Adolfo Gonzales Day.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-151) RETURNED TO THE RULES CONSULTANT

Recognizing Adolfo Gonzales for his 26 years of dedicated service in the San Diego Police Department and to the citizens of San Diego;

Proclaiming August 9, 2004 to be "Adolfo Gonzales Day" in the City of San Diego.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

MOTION BY ATKINS TO RETURN THIS ITEM TO THE RULES COMMITTEE CONSULTANT DUE TO THE LACK OF TIME. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

SPECIAL CLOSED SESSION ITEMS

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

**CS-1 *Border Business Park v. City of San Diego*
Appellate Case No. D039225; SDSC Case No. GIC 692794
Otay Acquisitions v. City of San Diego
SDSC Case No. GIC 753247
National Enterprises, Inc. v. City of San Diego
SDSC Case Nos. GIC 791407; GIC 805465**

REFERRED TO CLOSED SESSION ON TUESDAY, SEPTEMBER 7, 2004

ACA assigned: Leslie J. Girard

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The Border Business Park case resulted in a jury verdict against the City which is now on appeal. The National Enterprises and Otay Acquisitions cases are currently awaiting trial in the Superior Court. In closed session, the City Attorney will report on the status of on-going settlement negotiations and request further direction regarding those negotiations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:34 a.m. – 11:34 a.m.)

Mayor Murphy closed the Hearing.

CS-2 *Paulson v. City of San Diego*
USDC Case No. 89cv00820-GT(POR)

REFERRED TO CLOSED SESSION ON TUESDAY, SEPTEMBER 7, 2004

DCA assigned: James Chapin

This matter concerns the Mt. Soledad Cross. In closed session the City Attorney will brief the City Council on any recent developments in the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:34 a.m. – 11:34 a.m.)

Mayor Murphy closed the Hearing.

- * ITEM-50: Wireless Communication Facility Policy Amendment and Associated Ordinance Revisions to the Land Development Code.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 7/27/2004.
(Council voted 7-1. Councilmember Inzunza voted nay. Deputy Mayor Atkins not present):

(O-2004-123 Cor. Copy) ADOPTED AS ORDINANCE O-19308 (New Series)

Amending Chapter 11, Article 3, Division 1, of the San Diego Municipal Code by amending Section 113.0103; Amending Chapter 12, Article 3, Division 4, by amending Sections 123.0402 and 123.0406; Article 6, Division 2, by amending Section 126.0203; Article 6, Division 3, by amending Section 126.0303; Amending Chapter 13, Division 2, by amending Section 131.0222; Division 3, by amending Section 131.0322; Division 4, by amending Section 131.0422; Division 5, by amending Section 131.0522; Division 6, by amending Section 131.0622; Amending Chapter 14, Article 1, Division 4, by amending Section 141.0405; And by adding Section 141.0420 titled "Wireless Communication Facilities," all pertaining to Wireless Communication Facilities Regulations.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-51: Lease Agreement with the United States of America to Operate a Control Tower at Brown Field Airport.

(Otay Mesa Community Area. District-8.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 7/26/2004. (Council voted 8-0. Deputy Mayor Atkins not present):

(O-2005-5) ADOPTED AS ORDINANCE O-19309 (New Series)

Authorizing the City Manager to execute a ten-year lease agreement with the United States of America, acting through the Federal Aviation Administration (FAA), to operate and maintain a Control Tower on approximately ½ acre of City-owned property at the Brown Field Airport at no rent under the terms and conditions set forth in that lease agreement.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: LEAS-United States of America

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-52: Valet Parking Ordinance.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 7/26/2004. (Council voted 8-0. Deputy Mayor Atkins not present):

(O-2005-6) ADOPTED AS ORDINANCE O-19310 (New Series)

Amending Chapter 8, Article 6, Division 00, of the San Diego Municipal Code by amending Section 86.03.1; amending Chapter 8, Article 6, by adding a new Division 22 titled "Valet Parking," and by adding Sections 86.2201 titled "Purpose," 86.2202 titled "Definitions," 86.2203 titled "Designation of Valet Parking Zones," 86.2204 titled "Application for Permits," 86.2205 titled

“Duration of Permit,” 86.2206 titled “Permit Requirements,” 86.2207 titled “Permit Revocation, and 86.2208 titled “Penalty Provisions,” all pertaining to valet parking.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-nay, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-53: Fifth Amendment to the Consultant Agreement for the North Torrey Pines Road Bridge over Los Penasquitos Creek (Bridge #57C-206).

(Torrey Pines Community Area. District-1.)

CITY MANAGER’S RECOMMENDATION:

Introduce the following ordinance:

(O-2005-25) INTRODUCED, TO BE ADOPTED ON TUESDAY,
SEPTEMBER 7, 2004

Introduction of an Ordinance authorizing the City Manager to execute the Fifth Amendment to the Agreement with PDC Consultants in an amount not to exceed \$148,380 for Professional Services related to biological mitigation and mitigation monitoring for the Project, CIP-53-050.0, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$148,380 from TransNet, Fund No. 30300, for the purpose of executing the Fifth Amendment to the Agreement for the North Torrey Pines Road Bridge over Los Penasquitos Creek, provided that the City Auditor and Comptroller first furnishes a certificate certifying that funds are available and contingent upon the approval of the Fiscal Year 2005, budget;

Authorizing the City Auditor and Comptroller upon advice from the administering department, to return excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

The Project consists of replacing the structurally deficient North Torrey Pines Road Bridge over Los Penasquitos Creek with a new bridge approximately 340 feet in length. The Project will also provide for improvements to approach roadways, sidewalks on the west side, bike lanes, two bus turnouts, and two ADA compliant access ramps to the beach on the north side connecting under the bridge.

On February 8, 1993, the City Council approved a consultant Agreement with Lettieri-Mcintyre & Associates [now Project Design Consultants (PDC)] for the preparation of the environmental document for the Replacement of the North Torrey Pines Road Bridge over Los Penasquitos Creek (Southern Bridge), CIP 53-050.0, Resolution No. 281449.

Due to its close proximity, the Federal Highway Administration (FHWA) recommended that the City include the North Torrey Pines Road Bridge over the San Diego Northern Railway (Northern Bridge) in the same environmental document. On July 25, 1994, the City Council approved the First Amendment to the Agreement, Resolution No. 284327. However, the City of Del Mar, which shared jurisdictional responsibility for the Northern Bridge, did not approve the conceptual plan and their concurrence was necessary to finalize the environmental document. Therefore FHWA reversed their recommendation and allowed the City of San Diego to move forward with completion of the environmental document for the Southern Bridge only. This resulted in the Second Amendment with LM&A, on file on May 15, 2000, Document No. C-08456.

On May 15, 1997, the Third Amendment was approved for additional services required to update biology report and finalize Mitigated Negative Declaration, Document No. C-10041. The Fourth Amendment, filed December 20, 2002, as Document No. C-11845, allowed for expanded scope to address the Coastal Commission permit requirements, including Coastal Sage Scrub Re-vegetation Plan and Rip Rap Monitoring Program.

The Fifth Amendment will provide for Project Design Consultants to assist the City in implementation of the five years Mitigation Monitoring and Reporting Program (MMRP).

FISCAL IMPACT:

The total fee for providing services under this amendment is \$148,380. The base fee is \$133,380 and \$15,000 is available for additional services, if required. Funds are available in CIP-53-050.0, Replacement of the North Torrey Pines Road Bridge over Los Penasquitos Creek.

Mendes/Boekamp/Zoumaras

Aud. Cert. 2500091.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO INTRODUCE. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-100: Inviting Bids for the Construction of Camino Ruiz Neighborhood Park (Project).

(Mira Mesa Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-104) ADOPTED AS RESOLUTION R-299547

Approving the plans and specifications for the furnishing of all labor, material, tools, equipment, transportation and other expense necessary or incidental for the construction of Camino Ruiz Neighborhood Park (Project) on Work Order No. 297560;

Authorizing the City Auditor and Comptroller to add \$600,000 (from Fund No. 79006, Mira Mesa FBA Fund) to the Fiscal Year 2005 Capital Improvements Program Budget in CIP-29-756.0, Camino Ruiz Neighborhood Park, for the construction of Camino Ruiz Neighborhood Park and related costs;

Authorizing the Contract Services of the City of San Diego to proceed to publish in accordance with law, notice to contractors calling for bids for the work hereinabove described, in accordance with the plans and specifications hereinabove referred to;

Directing the City Manager to process an amendment to the Mira Mesa Financing Plan for CIP-29-756.0, Camino Ruiz Neighborhood Park, such that \$600,000 is programmed in FY 2005;

Authorizing the City Manager to execute a contract with the lowest responsible bidder for the Project;

Authorizing the City Auditor and Comptroller to appropriate and transfer an amount not to exceed \$600,000 from Fund No. 79006, Mira Mesa FBA Fund, to CIP-29-756.0, Camino Ruiz Neighborhood Park, for the Project;

Authorizing the expenditure of an amount not to exceed \$7,650,174 from CIP-29-756.0, Camino Ruiz Neighborhood Park, Fund No. 79006, Mira Mesa Facilities Benefit Assessment Fund, solely and exclusively for the purpose of providing funds for the Project and related costs;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K042244)

CITY MANAGER SUPPORTING INFORMATION:

Camino Ruiz Neighborhood Park is a Capital Improvement Project for the Mira Mesa community. The park will develop 11.3 acres of land with recreational facilities including three baseball fields (with a soccer field overlay), a basketball half court, children's play areas, concession stand/comfort station, picnic areas, surface parking lots, five canyon overlooks, landscaping and related park amenities.

FISCAL IMPACT:

The estimated total cost of the project is \$7,640,174.03, of which \$7,040,174.03 has been previously authorized. The remaining \$600,000 is available from Fund No. 79006, Mira Mesa Facilities Benefit Assessment Fund.

Herring/Oppenheim/AP

Aud. Cert. 2500041.

FILE LOCATION: W. O. 297560

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-101: Awarding of Project Contract to HTA Engineering and Construction, Inc., and Taking Related Actions Pertaining to Miscellaneous Improvements at Doyle Community Park.

(University City Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-119 Cor. Copy) ADOPTED AS RESOLUTION R-299548

Authorizing the City Manager to award the Project contract to HTA Engineering and Construction, Inc., in an amount not to exceed \$226,700, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Amending the Fiscal Year 2005 North University City Public Facilities Financing Plan to include an appropriation of \$150,000 for CIP-29-621.0, Doyle Community Park – Miscellaneous Improvements;

Amending the Fiscal Year 2005 Capital Improvements Program budget by the appropriation and transfer of \$150,000 from the North University City Facilities Benefits Assessment, Fund No. 79001, to CIP-29-621.0, Doyle Community Park – Miscellaneous Improvements;

Authorizing the expenditure of an amount not to exceed \$226,700 from CIP-29-621.0, Doyle Community Park – Miscellaneous Improvements, Fund No. 79001, North University City FBA, for the purpose of providing funds for the above-referenced Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

Doyle Community Park - Miscellaneous Improvements is located at the northeast corner of Regents Road and Berino Court in the University City Community area. This project proposes the following improvements to the existing 27-acre Doyle Community Park: A new comfort station, high-low drinking fountain, upgrade to existing concrete walkways to meet Americans With Disabilities Act (ADA) requirements, new ADA curb ramps at existing parking lot, expansion of existing picnic area including new picnic tables, additional picnic tables at picnic area, erosion control landscaping and irrigation, and replacement of existing horse shoe pits with passive landscape garden area.

Project design has been completed. To maintain the current schedule, the project was advertised in two separate contracts: site improvements, and a pre-fabricated comfort station building. In May 2004, bids were opened for both contracts and the qualified, low bid received for the site improvements component is significantly higher than the engineer's cost estimate. The low bid received for the comfort station, however, is within the engineer's estimate. In order to award the construction contracts, adequately fund and complete the project, an additional \$150,000 is required. The construction contract for the comfort station will be awarded separately, through a Manager's Action.

FISCAL IMPACT:

The total project cost is estimated at \$450,000 of which \$300,000 has been previously authorized. The remaining funds, \$150,000, are available in Fund No. 79001, North University City FBA.

Herring/Oppenheim/AP

Aud. Cert. 2500085.

FILE LOCATION: CONT-HTA Engineering & Construction, Inc.

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-102: Awarding a Construction Contract to 3-D Enterprises, Inc., for Rancho Penasquitos Skate Park and Hilltop Community Park Development.

(Rancho Penasquitos Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-120 Cor. Copy) ADOPTED AS RESOLUTION R-299549

Authorizing the City Manager to award the Project contract to 3-D Enterprises, Inc., in an amount not to exceed \$1,505,990, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to amend the FY 2004 Rancho Penasquitos Public Facilities Financing Plan by requesting the following:

- (a) increase of appropriations for the Rancho Penasquitos Skate Park, CIP-29-516.0 by \$1,111,000;
- (b) reduction of appropriations for the Hilltop Community Park Development, CIP-29-282.1 by \$530,000;
- (c) reduction of appropriations for the Rancho Penasquitos Playground Upgrades, CIP-29-864.0 by \$300,000;
- (d) reduction of appropriations for the Canyonside Drainage project, CIP-29-573.0 by \$100,000; and
- (e) allocation of \$181,000 from the Rancho Penasquitos fund balance to the Rancho Penasquitos Skate Park, CIP-29-516.0.

Authorizing the City Manager to:

- (a) take all necessary actions to secure the Grant and to negotiate and execute all agreements necessary to comply with the SOC's grant requirements;
- (b) accept the Grant if it is secured; and
- (c) apply to the SOC for the Grant for Hilltop

Authorizing the City Auditor and Comptroller to:

- (a) transfer \$300,000 from CIP-29-864.0, Rancho Penasquitos Parks - Playground Upgrades, to CIP-29-516.0, Rancho Penasquitos Skate Park, Fund No. 79004, Rancho Penasquitos Facilities Benefits Assessment (FBA);
- (b) transfer \$100,000 from CIP-29-573.0, Canyonside Drainage to CIP-29-516.0, Rancho Penasquitos Skate Park, Fund No. 79004, Rancho Penasquitos FBA;
- (c) transfer \$530,000 from CIP-29-282.1, Hilltop Community Park Development, to CIP-29-516.0, Rancho Penasquitos Skate Park, Fund No. 79004, Rancho Penasquitos FBA;
- (d) increase by \$181,000 the Fiscal Year 2005 Capital Improvements Program Budget in CIP-29-516.0, Rancho Penasquitos Skate Park, Fund No. 79004, Rancho Penasquitos FBA;
- (e) increase by \$150,000 the Fiscal Year 2005 Capital Improvements Program Budget in CIP-29-516.0, Rancho Penasquitos Skate Park, Fund No. 12000, Building Permit Fees;
- (f) increase by \$69,000 the Fiscal Year 2005 Capital Improvements Program Budget in CIP-29-516.0, Rancho Penasquitos Skate Park, Fund No. 11140, Park Service District Fees;
- (g) appropriate and expend an amount not to exceed \$1,505,990 from the following: \$1,286,990 from CIP-29-516.0, Rancho Penasquitos Skate Park, Fund No. 79004, Rancho Penasquitos FBA; \$69,000 from Fund No. 11140, Park Service District; and \$150,000 from Fund No. 12000, Building Permit Fees, for the purpose of providing funds for the above referenced Project;
- (h) upon advice from the administering department, transfer excess funds, if any, to the appropriate reserves;
- (i) establish a special interest-bearing fund for the Grant;
- (j) that upon receipt of a fully executed grant agreement, an increase in the FY2005 Capital Improvement Program Budget by \$70,000 in CIP-29-282.1, Hilltop Community Park - Development, is authorized; and

- (k) appropriate and expend an amount not to exceed \$600,000 from CIP-29-282.1, Hilltop Community Park – Development, upon receipt of a fully executed grant agreement.

CITY MANAGER SUPPORTING INFORMATION:

Rancho Penasquitos Skate Park is located between Carmel Mountain Road and Highway 56 (Ted Williams Parkway) east of the Caltrans Park and Ride facility. The proposed improvements include a 20,000 square foot skate park with wood and concrete structures, enhanced concrete paving, site grading, site utilities, security lighting, check-in/comfort station building, drinking fountain, drop off area with disabled accessible parking spaces, security fence, landscaping, irrigation system, picnic tables, and signage. The State of California Department of Transportation has agreed to allow the City to construct and operate the skate park and utilize 21 parking spaces on the adjacent Park and Ride site for skate park patrons.

Project design has been completed and a site Development Permit No. 16898, approved by Resolution, No. R-298422, adopted September 23, 2003, has been issued for construction of the skate park. The project was advertised for bids on May 17, 2004, and bids were opened on June 11, 2004. Three bids were received, and the apparent low bid of 3-D Enterprises, Inc. in the amount of \$1,505,990 is \$580,878 over the engineer's estimate of \$925,112. Consequently, an additional \$800,000 is needed to allow the project to move forward, award a construction contract to the low bidder contractor, and fund the construction engineering and contingency reserves.

This action also authorizes the City Manager to apply for \$600,000 of Council District 1's allocation of the Prop 40 Per Capita funds for the Hilltop Community Park Development project, CIP-29-282.1. In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002. Based upon State Department of Finance population figures as of January 1, 2002, the City of San Diego will receive a total of \$11,063,430 on a Per Capita basis from the bond. On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the Per Capita/RZH Per Capita funds to each council district, with a portion of the funding set aside for projects with citywide and regional impact.

FISCAL IMPACT:

The total project cost is estimated at \$2,105,000 of which \$775,000 has been previously authorized. The remaining funds, \$1,330,000, are available as follows: \$530,000 from

CIP-29-282.1, Hilltop CP - Development, Fund No. 79004, Rancho Penasquitos FBA; \$300,000 from CIP-29-864.0, Rancho Penasquitos Parks-Playground Upgrades, Fund No. 79004, Rancho Penasquitos FBA; \$100,000 from CIP-29-573.0, Canyonside Community Park Drainage Improvements, Fund No. 79004, Rancho Penasquitos FBA; \$181,000 from Fund 79004, Rancho Penasquitos FBA; \$150,000 from Fund No. 12000, Building Permit Fees; and \$69,000 from Fund No. 11140, Park Service District Fees.

Herring/Oppenheim/AP

Aud. Cert. 2500084.

FILE LOCATION: CONT-3-D Enterprises, Inc.

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-103: Change Order No. 2 with Sverdrup Civil Inc. for Ballpark Infrastructure Project and the Centre City Sewer Improvements.

(Centre City Redevelopment Project Community Area. Districts-2 and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-141) ADOPTED AS RESOLUTION R-299550

Approving Change Order No. 2 with Sverdrup Civil, Inc., dated March 18, 2004, issued in connection with the contract between the City of San Diego and Sverdrup Civil, Inc., along with the changes therein set forth, increasing the total contract price by \$500,000 amounting to \$22,352,827;

Authorizing the expenditure of \$500,000 from Fund 30244, CIP-39-228.1, Ballpark and Redevelopment Project Infrastructure, as payment for Change Order No. 2;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$12,500 from Sewer Fund No. 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement to Sewer Fund No. 41506, CIP-40-927.0, Centre City Sewer Improvement;

Authorizing the expenditure of \$53,278.25 from Sewer Fund No. 41506, CIP-40-927.0, Centre City Sewer Improvements, for construction cost overruns related to sewer improvements, provided that the City Auditor and Comptroller first furnishes a certificate certifying that funds are, or will be, on deposit with the City Treasurer.

CITY MANAGER SUPPORTING INFORMATION:

Within the Ballpark and Redevelopment Project, the City is responsible for the planning and construction of Infrastructure improvements. By Resolution 292615, dated December 14, 1999, the City Council authorized the City Manager to execute a phase-funded agreement with Sverdrup Civil, Inc., for design and construction management services for the infrastructure improvements.

This infrastructure agreement between Sverdrup and the City provides for demolition and removal of existing structures, design and construction of new roads, realignment of existing roads, streetscapes and landscapes, parking lots, and public utilities to support the Ballpark Project, and the entire East Village Redevelopment area. In addition, by Resolution R-294568, dated Feb 20, 2001, the City Council authorized the City manager to execute a phase funded agreement with Sverdrup Civil, Inc. for Phase 4b, to provide sewer improvements in conjunction with other East Village Redevelopment infrastructure activities being performed by the City. Phase 4b in the Sverdrup agreement provides for the installation of 1,800 ft of 12-inch sewer mains, including a 400-ft tunnel under the railroad at Park Blvd. and Harbor Drive.

In September 2002, the City amended Sverdrup's contract (3rd amendment) reducing the contract amount by \$500,000 in Ballpark funding, which represented the project's savings at the time. In August 2003, the City amended Sverdrup's contract (4th amendment) reducing the scope of work. As a result of this reduction, the hard Construction Cost were reduced by \$558,640 in Ballpark funding, and \$67,077 in sewer funding, for a total contract reduction of \$625,717. In a related action, a deductive Change Order No. 1 in the amount of \$625,717 was also processed simultaneously with the 4th Amendment. As a result of the reduced scope of work, Sverdrup has assigned all un-completed sub-contracts to the City. Simultaneously, the City used the \$625,717 reduction in Sverdrup's contract to fund the completion of those assigned sub-contracts, by entering into direct contracts with the (three) sub-contractors.

This action authorizes additive Change Order No. 2 in the amount of \$500,000, to: a) extend the contract time; b) to provide construction management staff; c) to provide design modifications for the surface parking lots and street improvements; d) to provide additional coordination and preliminary re-design related to the recent PUC approval of the proposed at-grade rail road crossing at Park Blvd. and Harbor Drive; e) and to pay for Infrastructure related reimbursable costs, as provided for in the Agreement.

Additionally, this action will authorize the expenditure of \$53,278.25 from Centre City Sewer Improvements, for construction cost over-runs, which were offset by a cost reduction of an equal amount from the Water fund.

FISCAL IMPACT:

Funding of \$500,000 for Contract Change Order #2 with Sverdrup Civil, Inc. is available in Fund 30244, CIP-39-228.1, Ballpark Infrastructure Project, and is part of the project budget. Additionally, funding for \$53,278.25 is available in Sewer Fund 41506, CIP-40-927.0, Centre City Sewer Improvements.

Herring/Boekamp/MEH

Aud. Cert. 2500080.

FILE LOCATION: CONT-SVERDRUP CIVIL INC.

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-104: Two actions related to Change Order No. 1 with Heffler Company, Inc., for the Construction of Tailgate Park and D1/D2 Parking Lots (Ballpark Infrastructure Project Bid Packages #13 & #14).

(Centre City Redevelopment Project. Districts-2 and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-139) ADOPTED AS RESOLUTION R-299551

Approving Change Order No. 1, issued in connection with the contract between the City of San Diego and the Heffler Company, Inc., for construction of Tailgate Park and D1/D2 parking lots, together with the changes therein set forth, amounting to a net increase in the contract price of \$857,790.66;

Authorizing the expenditure of an amount not to exceed \$857,790.66 from Fund No. 30244, CIP-39-228.1, Ballpark Infrastructure Project, solely and exclusively, to provide funds for the above Change Order No. 1;

Authorizing the expenditure of an amount not to exceed \$270,029.84 from Fund No. 30244, CIP-39-228.1, Ballpark Infrastructure Project, solely and exclusively, to provide funds for payment to the contractor's and subcontractors' employees, based upon a prevailing wage audit of this project; and that payment shall be forwarded to the State of California's Department of Industrial Relations for distribution and allocation.

Subitem-B: (R-2005-140) ADOPTED AS RESOLUTION R-299552

Stating for the record that the information contained in the final Environmental Impact Report, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of the Tailgate Park and D1/D2 Parking Lots construction;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above Project.

CITY MANAGER SUPPORTING INFORMATION:

Tailgate Park and the D1/D2 surface parking lots are part of the City's Ballpark Infrastructure project. On September 2, 2003, the City Council authorized the City Manager to bid and award

the construction of the two parking lots (R-298347). The project was subsequently awarded on November 17, 2003, to Heffler Company, Inc.

This action includes:

- 1) The authorization of Change Order No. 1 for a total increase of \$857,790.66, and
- 2) The authorization of an expenditure in the amount of \$270,029.84 to forward to the State of California's Department of Industrial Relations for payment to contractor and sub-contractors employees based upon a prevailing wage audit.

Change Order No. 1, for Heffler Company, Inc., adjusts contract bid items to account for credits on un-used bid items, and extra cost for additional bid quantities. Additionally, Change Order No. 1 authorizes additional costs to perform additive alternate bid items and additional improvements necessary to the development of the parking lots and other related Ballpark Infrastructure Project work.

FISCAL IMPACT:

Funding of \$857,790.66 for Contract Change Order #1 is available in Fund 30244, CIP-39-228.1, Ballpark Infrastructure Project, and is part of the project budget. Additionally, funding of \$270,029.84 for the State DIR is available in Fund 30244, Ballpark Infrastructure Project, and is part of the project budget.

Herring/Boekamp/MEH

Aud. Cert. 2500079.

FILE LOCATION: SUBITEMS A & B: CONT-HEFFLER COMPANY, INC.

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-105: Two actions related to Golden Hill Public Facilities Financing Plan Fiscal Year 2005.

(See City Manager Report CMR-04-158 and Public Facilities Financing Plan. Golden Hill Community Area. Districts-3 and 8.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2004-1145) ADOPTED AS RESOLUTION R-299553

Approving the Golden Hill Public Facilities Financing Plan, Fiscal Year 2005.

Subitem-B: (R-2004-1146) ADOPTED AS RESOLUTION R-299554

Rescinding the existing Development Impact Fees (DIF) for the Golden Hill Community;

Declaring the DIF fee schedule contained in the Golden Hill Public Facilities Financing Plan, Fiscal Year 2005 as adopted and approved, to be an appropriate and applicable DIF fee schedule for all properties within the Golden Hill Community area;

Determining and finding that the docket supporting information (City Manager's Report No. 04-158), including all exhibits and attachments thereto, and the text contained in the Golden Hill Public Facilities Financing Plan, Fiscal Year 2005, are incorporated by reference into this Resolution as support and justification for satisfaction of findings required pursuant to California Government Code Sections 66001(a) and 66001(b) for imposition of DIFs. Specifically, it is determined and found that this documentation:

1. Identifies the purpose of the DIFs;
2. Identifies the use to which the DIF is to be put;
3. Demonstrates how there is a reasonable relationship between the DIF's use and the type of development project on which the DIF is imposed; and
4. Demonstrates how there is a reasonable relationship between the need for the public facility and the type of development project on which the DIF is imposed.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 7/21/2004, LU&H voted 4 to 0 to approve the Manager's recommendation. (Councilmembers Peters, Zucchet, Lewis, and Frye voted yea. Councilmember Inzunza not present.)

FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-106: Approval of Increase to "D" Mileage Reimbursement Rate.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-134) ADOPTED AS RESOLUTION R-299555

Amending Article 38 of the Memorandum of Understanding between the San Diego Municipal Employees' Association and the City of San Diego for the term of July 1, 2002 through June 30, 2005 to increase the "D" mileage reimbursement rate by \$.07 retroactive to May 1, 2004;

Amending Article 25 of the Memorandum of Understanding between Local 127, American Federation of State, County and Municipal Employees, AFL-CIO, and the City of San Diego for the term of July 1, 2002 through June 30, 2005 to reflect the same \$.07 increase to the "D" mileage reimbursement rate retroactive to May 1, 2004.

CITY MANAGER SUPPORTING INFORMATION:

In 2000, a new "D" mileage reimbursement rate was negotiated with the Municipal Employees Association and AFSCME Local 127, for those employees who, as a condition of employment,

use their personal vehicle for City business, or drive their vehicle 250 miles per month and exit the Parkade twelve times per month. The maximum "D" mileage rate was established at \$.53 cents per mile, and was increased by one cent on July 1, 2003, and July 1, 2004, for a current total of \$.55 per mile.

In May, 2004, the Municipal Employee Association requested that the City increase the reimbursement rate for "D" Mileage, due to increased gas prices in San Diego County. "D" Mileage reimbursement is provided to eligible employees in one of two ways: 1) employees in classifications who are required to provide a personal vehicle as a condition of employment, as specified in MEA's Memorandum of Understanding (July 1, 2002 through June 30, 2005), and 2) employees who drive 250 miles per month AND who leave the Concourse parkade a minimum of 12 times per month on City business. Local 127 represented employees are only eligible for "D" mileage under #2 above.

As a result of MEA's request, the City Management team met and conferred with MEA on the amount of the increase, reaching a tentative agreement on an increase to "D" mileage reimbursement rates of \$.07 per mile, retroactive to May 1, 2004. These increases will be applied uniformly to eligible employees under Local 127's MOU.

Authority for this action was approved by City Council in Closed Session on June 21, 2004.

FISCAL IMPACT:

This increase is estimated to cost \$193,169, which will be absorbed within department's current operating budgets.

Lexin/McGhee

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-107: Transferring the Emerging Technologies Revolving Loan Fund, Phase II (“EmTek II”) to a Private Nonprofit Financial Intermediary.

(See City Manager Report CMR-04-180.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-155) ADOPTED AS RESOLUTION R-299556

Authorizing the City Manager to do the following:

1. Seek a formal request from Jacobs Center for Nonprofit Innovation (JCNI) to the City for termination of the Recoverable Grant Agreement and Non-Recourse Note dated May 1, 2000, and for transfer by the City to JCNI of all the EmTek II assets (including loans, cash available to loan, and associated loan warrants) so that JCNI can execute a new fund management agreement with the California Southern Small Business Development Corporation, or another appropriate private nonprofit financial intermediary.
2. Secure formal approval from the EmTek II investor banks of the termination of the Recoverable Grant Agreement and Non-Recourse Note between the City and JCNI, and transfer of EmTek II assets from the City to JCNI.
3. Upon the termination of the Recoverable Grant Agreement and Non-Recourse Note and receipt of approval from the EmTek II investor banks for the transaction, take actions necessary for the transfer of all EmTek II assets, (including loans, cash available to loan, and warrants) and the transfer of \$125,000 of the Program Reserve Fund to JCNI.
4. Renegotiate the Memorandum of Understanding between the City and County dated December 9, 1997, which discusses EmTek Loan Program responsibilities and funding to reflect the transfer of EmTek II assets and responsibilities to JCNI.

Aud. Cert. 2500111.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-108: Reprogram Community Development Block Grant Funds (CDBG) for Repairs and Improvements of Vista Terrace Swimming Pool Project.

(San Ysidro Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-153) ADOPTED AS RESOLUTION R-299557

Authorizing the reprogramming of the sum of \$38,500 of Community Development Block Grant Funds (CDBG) from the San Ysidro Business Improvement Association Project, Fund 18536, Dept. 4212, Org. 1220, to the Vista Terrace Swimming Pool Project for miscellaneous repairs and safety enhancements;

Authorizing the appropriation and expenditure of said \$38,500 CDBG funds for the purpose of implementing various facility repairs and safety enhancements at the Vista Terrace Swimming Pool facility, such as: enclose the building, install heaters in the locker rooms, replace floor tiles in the lobby and office, replace outdoor lights, replace bathroom stalls, and add stall doors to private dressing area in locker rooms.

CITY MANAGER SUPPORTING INFORMATION:

Council District 8 is reprogramming prior year Community Development Block Grant Funds (CDBG) from the San Ysidro Business Improvement Corporation Project to make it available to do some of the unfunded repair work and safety enhancements at Vista Terrace Swimming Pool

such as: enclose the building, install heaters in the locker rooms, replace floor tiles in the lobby and office, replace outdoor lights, replace bathroom stalls, and add stall doors to private dressing area in locker rooms.

FISCAL IMPACT:

\$38,500 from CDBG Fund 18536, Dept 4212, Org 1220.

Mendes/BD

Aud. Cert. 2500115.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-109: Amendment to the Retention Agreement with Steinmann Facility Development Consultants for the Ballpark and Redevelopment Project.

(Centre City Redevelopment Project. Districts-2 and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-144) ADOPTED AS RESOLUTION R-299558

Authorizing the City Attorney to execute an amendment to the retention agreement with Steinmann Facility Development Consultants for an additional amount not to exceed \$35,000, for a total contract amount not to exceed \$378,665;

Authorizing the expenditure of an amount not to exceed \$35,000 from Fund 30244, Dept. 30244, Org. No. 106, Object Account 4222, Job Order 392281,

CIP-39-228.1, solely and exclusively, for the purpose of providing funds for the above Project.

CITY MANAGER SUPPORTING INFORMATION:

In accordance with the Memorandum of Understanding between the City, CCDC and the Padres, as approved by the electorate on November 3, 1998, the City is responsible for the design and construction of infrastructure components of the Ballpark and Redevelopment Project while the Padres are responsible for the construction of the Ballpark Facility. To help accomplish the City's responsibilities regarding infrastructure and provide oversight of the ballpark facility construction on the City's behalf, Mr. Jim Steinmann of Steinmann Facility Development Consultants has provided consulting services to the City.

Approval of a final phase of consulting services for the remainder of the project is requested. Under the agreement, Mr. Steinmann will continue to assist the City in completing the design/build infrastructure project, including resolution of any issues and developing a work program for the balance of infrastructure work, and provide oversight of the ballpark facility construction conducted by the Padres, reviewing the project schedule and cost changes, reviewing all invoices received from the Padres on the City's behalf and assisting with project closeout. Mr. Steinmann's services will continue through the conclusion of the project.

FISCAL IMPACT

This agreement for Phase VII of consulting service is not-to-exceed \$35,000 and will be funded from the Infrastructure budget within the Ballpark and Redevelopment Project, CIP-39-228.1, Ballpark and Redevelopment Project.

Herring/Boekamp/MEH

Aud. Cert. 2500078.

FILE LOCATION: MEET (64)

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-110: Reimbursement Agreement with Sycamore Estates, LLC, for Acquisition and Site Development of the Rancho Encantada Neighborhood Park No. 1.

(Rancho Encantada Community Area. District-7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-127) ADOPTED AS RESOLUTION R-299559

Authorizing the City Manager to execute an agreement with Sycamore Estates, LLC, for acquisition and site development of the Rancho Encantada Neighborhood Park No. 1, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$6,000,000 from CIP-29-610.0, Rancho Encantada Neighborhood Park No. 1, Facilities Benefit Assessment Fund No. 79016, for the purpose of providing funds for the Project, contingent upon certification by the City Auditor and Comptroller that revenues are available at the time reimbursement is scheduled for this Project, currently scheduled for the beginning of Fiscal Year 2006;

Authorizing the City Manager to amend the Fiscal Year 2002 Rancho Encantada Public Facilities Financing Plan by:

1. increasing appropriations for Project P-1, Rancho Encantada Neighborhood Park No. 1, CIP-29-610.0, by \$3,400,000; and
2. eliminating the Rancho Encantada Facilities Benefit Assessments (FBA) funding of \$2,210,880 for Project T-2, and \$2,100,000 for Project T-3 in the Rancho Encantada Public Facilities Financing Plan.

CITY MANAGER SUPPORTING INFORMATION:

The proposed Rancho Encantada Neighborhood Park No.1 is approximately 8.0 acres in size and located within the Sycamore Estates Subdivision of the Rancho Encantada community. Execution and implementation of this proposed Park Reimbursement Agreement between the City of San Diego and Sycamore Estates, LLC (Subdivider) will satisfy Condition No. 46 a-f of

the Sycamore Estates Vesting Tentative Map (VTM 99-0899) approved by City Council on August 7, 2001, Resolution No. R- 295403.

The Subdivider will advance the funds to design and construct the park, contiguous street improvements and associated utilities to serve the park. The Subdivider will be reimbursed for this work and acquisition of the park site pursuant to the agreement in either Facilities Benefit Assessment credit or cash. Cash reimbursements will occur as provided for in the amended Rancho Encantada Public Facilities Financing Plan (PFFP), or as cash becomes available if not available when allowed for by the PFFP. The PFFP allows for reimbursement beginning in Fiscal Year 2006. Project T-2, as described in the PFFP, has been constructed by the Subdivider according to his Planned Residential Permit. Construction of Project T-3 shall be assured by permit and bond prior to recordation of the final map in which the fire access road right-of-way is located.

FISCAL IMPACT:

All approved costs associated with the design and construction of this project are funded through the Rancho Encantada Facilities Benefit Assessment, Fund No. 79016. Annual maintenance costs are estimated to be approximately \$68,000. The funding for these costs will be requested as a new Park and Recreation facility in the fiscal year budget process in which the project is complete, which is anticipated to be Fiscal Year 2006.

Herring/Oppenheim/AP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-111: Fifth Amendment to Agreement with Rob Wellington Quigley Architects, Inc. and Tucker Sadler Noble Castro, Architects, Inc., Joint Venture, for Design of the New Main Library; and Agreement with Turner Construction Company for the Preconstruction Services for the New Main Library.

(Centre City Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-145) ADOPTED AS RESOLUTION R-299560

Authorizing the City Manager to execute a Fifth Amendment to the Agreement with Rob Wellington Quigley Architects, Inc. and Tucker Sadler Noble Castro, Architects, Inc., Joint Venture, for design of the City's new main library, under the terms and conditions set forth in the Fifth Amendment to Agreement;

Authorizing the City Manager to execute a Preconstruction Services Agreement with Turner Construction Company for the City's new main library, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$3,000,000 from Fund No. 102216, CIP-35-082.0, San Diego Main Library, to be expended as follows: \$2,500,000, solely and exclusively, to provide funds for the above Fifth Amendment to the Architectural Services Agreement; and \$500,000, solely and exclusively, to provide funds for the above Preconstruction Services Agreement.

CITY MANAGER SUPPORTING INFORMATION:

In June 2000, the Mayor and Council reviewed several alternative sites and selected the Park to Bay site for the proposed Main Library. The Park to Bay site is adjacent to the main intersection of the Park to Bay link, between 11th and 12th and J and K Streets in Downtown San Diego. The City Manager entered into an agreement with Rob Wellington Quigley, FAIA for design services in September 2000, which was followed by a Council approved First Amendment to Agreement in October 2000. In July of 2001, Council approved the Second Amendment to Agreement and assigned the phase-funded contract to a Joint Venture between Rob Wellington Quigley Architects, Inc. and Tucker Sadler Noble Castro Architects, Inc. The Third and Fourth Amendments to Agreement were approved in November 2002 and July 2003.

The Fifth Amendment will complete a portion of the Construction Document phase of the design, and increase the contract by \$2,500,000 for a total of \$7,961,501 to date.

In January of 2003, the City advertised a Request for Qualification for preconstruction and post construction management services. Seven firms submitted their request for qualifications and four firms were selected to participate in a Request for Proposal (RFP) process for the Main

Library's Construction Manager. After issuing the RFP in June of 2004, two of the short-listed firms withdrew from the process, Interviews were held on July 22, 2004 and the selection panel included a Library Commissioner, a contract specialist from the San Diego Unified School District, representatives from the Library Department, the Manager's Office - Equal Opportunity Contracting, and the Engineering and Capital Projects Department. The Preconstruction Services Contract will provide construction plan reviews, value engineering, preparation of bidding documents, development of an insurance program, cost estimating, and other necessary pre-construction services. While the proposal submitted by Turner Construction includes business terms for construction services (Phase II), and the current plan envisions awarding the Construction Management Services to Turner Construction, the City is not obligated to award the Construction Management Services contract to Turner Construction.

FISCAL IMPACT:

The Fifth Amendment to Agreement increases the Consultant Design contract from \$5,461,501 to \$7,961,501. Funds for this purpose, \$2,500,000, are available in CIP-35-082.0, San Diego Main Library. The Agreement for Preconstruction Services provides for a contract of \$500,000. Funds for this purpose, \$500,000, are available in CIP-35-820.0, San Diego Main Library.

Herring/Boekamp/AO

Aud. Cert. 2500094.

FILE LOCATION: MEET (63)

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-112: Chollas Creek Watershed Integrated Pest Management Pesticide Research and Identification of Source and Mitigation (PRISM) Grant Agreement with San Diego County.

(Mid-City, Southeastern San Diego, and Barrio Logan Community Areas.
Districts-3, 4, 7, and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-142) ADOPTED AS RESOLUTION R-299561

Authorizing the City Manager to execute an Agreement with San Diego County, for the PRISM program for Grant No. 10, Chollas Creek Watershed Integrated Pest Management (IPM) Education Project, under the terms and conditions set forth in the Agreement;

Authorizing the City Manager to issue one or more task orders to MEC Analytical Systems, Inc., under the As-Needed Wet Weather Monitoring Services Agreement, in a cumulative amount not to exceed \$232,000, for water quality monitoring and other services required by the Agreement between the City of San Diego and the County, provided the City Auditor and Comptroller first furnishes one or more certificates demonstrating the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Authorizing the City Manager to accept, appropriate and expend grant funds received from the County pursuant to the Agreement, in an amount not to exceed \$352,000, contingent upon receipt of the fully executed Agreement, and provided the City Auditor and Comptroller first furnishes one or more certificates demonstrating the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

In June 2004, the County of San Diego entered into an agreement with the State Water Resources Control Board (SWRCB) to receive grant funding under State Costa - Machado Act of 2000 (Proposition 13) for the San Diego Regional Integrated Pest Management (IPM) Education and Outreach project as part of their Nonpoint Source Pollution Control Pesticide Research and Identification of Source and Mitigation (PRISM) program. This project is intended to induce positive changes in residents' attitudes and behaviors when dealing with pesticides around their homes in the San Diego Region over the next 3 years.

The City of San Diego, a project partner, will develop and implement a focused community-based IPM program in the Chollas Creek watershed including monitoring of Chollas Creek water quality. The State of California has identified Chollas Creek as impaired for toxicity and identified the pesticide diazinon as the cause. The project will serve to reduce pesticide use within the Chollas Creek Watershed and demonstrate compliance with the Total Maximum Daily Load (TMDL) order that was adopted by the State Regional Water Quality Control Board.

The Agreement with the County of San Diego formalizes our participation in this grant-funded IPM project. The water quality monitoring will be conducted by MEC Analytical Systems, Inc. under an existing Agreement for As-Needed Storm Water Sampling and Testing (Document No. RR-294115, November 14, 2000 and Document No. C-10751, May 31, 2001).

FISCAL IMPACT:

Upon completion of the fully executable Memorandum of Understanding, the City will be authorized to expend \$352,000 of the State grant funding received by the County of San Diego. This action also funds a consultant agreement with MEC Analytical Systems, Inc. that will be funded by the Memorandum of Understanding for an amount not to exceed \$232,000. The City will utilize their contributions for the next three years to the San Diego Municipal Storm Water Copermittee Shared Outreach Budget to meet the City's share of the local grant contribution requirement, for an amount no less than \$40,000.

Mendes/Tulloch/KH

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-113: Second Amendment to Retention Agreement with KPMG LLP, to Perform Audit of the City's FY 2003 Basic Financial Statements.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-157) ADOPTED AS RESOLUTION R-299562

Authorizing the City Manager to execute a second amendment to the retention agreement between the City of San Diego and KPMG LLP for an additional amount not to exceed \$400,000, for auditing services related to the audit of the City's FY 2003 basic financial statements, for a total contract amount not to exceed \$1,200,000.

CITY MANAGER SUPPORTING INFORMATION:

On January 27, 2004, the City filed a voluntary financial disclosure concerning, in part, certain errors and correctible statements in the City's FY 2002 Comprehensive Annual Financial Report ("CAFR"). As a result, the FY 2003 CAFR has not been finalized and issued. The City Manager retained the firm of KPMG LLP to perform the audit of the City's FY 2003 basic financial statements, which are included in the CAFR, before the FY 2003 CAFR is finalized and issued. The preliminary estimate for the cost to perform the audit was anticipated to be approximately \$500,000. On July 12, 2004, the City Council authorized the first amendment with KPMG to increase the not to exceed amount to \$800,000. Given the importance of a thorough review, actual expenditures to date and the revised estimated cost to continue the audit, the City Manager is requesting that the City Council authorize a second amendment to KPMG for an additional \$400,000 for a total contract amount of not to exceed \$1,200,000.

Ewell/Irvine

Aud. Cert. 2500114.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-114: Cooperative Agreement with State of California for Tree Planting and Irrigation Systems in Balboa Park.

(Balboa Park Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-132) ADOPTED AS RESOLUTION R-299563

Authorizing the City Manager to execute an agreement with the State of California, acting through the State's Department of Transportation, to provide median barricade improvements for the State Route 163 corridor, located in the Archery Range area of Balboa Park, east of State Route 163, extending from 0.25 miles south of the Cabrillo Bridge to 0.25 miles north of the Cabrillo Bridge, which include the planting of additional trees and an irrigation system to properly establish the trees (Project), under the terms and conditions set forth in the Agreement.

CITY MANAGER SUPPORTING INFORMATION:

The California Department of Transportation (STATE) intends to provide median barricade improvements for the State Route 163 corridor through Balboa Park. Caltrans is required under CEQA to mitigate the visual impact of the improvements. To mitigate the impacts, the STATE proposes to plant additional trees within the SR-163 corridor, including an irrigation system to properly establish the trees.

The current boundaries of the SR 163 corridor through Balboa Park, in conjunction with Caltrans safety guidelines, prohibit the planting of trees in sufficient quantity within the STATE right-of-way. STATE proposes to plant the trees in Balboa Park immediately adjacent to, and within the viewshed of SR 163. The project area would be in the Archery Range area of Balboa Park east of SR 163, and would extend from 0.25 miles south of the Cabrillo Bridge to 0.25 miles north of the Cabrillo Bridge. The entire project area is approximately 2.75 acres.

The proposed cooperative agreement provides for the general requirements of the project, including how the project is to be constructed, financed, and maintained. Pursuant to the agreement, the STATE will be responsible for the design, construction, and financing of the project, including three years of plant establishment. The City will be responsible for providing coordination, plan review and construction review.

FISCAL IMPACT:

The estimated project cost is \$475,000. The STATE will be responsible for 100% of the project cost, including design, construction, and three years of plant establishment.

Mendes/Boekamp/VW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-115: Lawsuit Settlement with Conwell Shonkwiler and Associates, Inc. Regarding the Design of the City of San Diego Water Department's Central Facility.

(Kearny Mesa Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-133) ADOPTED AS RESOLUTION R-299564

Authorizing acceptance of \$2.3 million in full settlement of the City's lawsuit against Conwell Shonkwiler & Associates, Inc., regarding the design of the City of San Diego Water Department's Central Facility;

Authorizing an increase in appropriation for Fiscal Year 2005 to Water Fund 41500, CIP-73-338.0/73-338.1, Water Department Central Facility, in the amount of \$2,300,000, said increase to be funded exclusively by the above-referenced settlement.

CITY MANAGER SUPPORTING INFORMATION:

In June 1997, the Zero Based Management Review recommended that the Water Department consolidate and relocate its office and maintenance facilities outside of downtown in order to

reduce annual rent and operating costs by \$3,052,931. After an initial selection and interview process, Conwell Shonkwiler & Associates (CSA) along with DMG Maximus (DMG) were hired to develop a building program, concept plan, and construction budget for the project. In July 1999, the City contracted with CSA to design this facility based on the building program and construction budget established by CSA and DMG.

In March 2000, CSA submitted 30 percent design documents that were \$14 to \$18 million dollars over the project's budget, the City directed CSA to redesign the project back to within the approved budget. After redesigning the project, the final design drawings were submitted and the Council authorized the project's advertisement. At the time of this approval, the design of the facility was complete, but the extension of City staff, Parsons, Inc., identified errors in the design that needed to be corrected before the project advertised to a low bid contractor. City staff notified CSA of these errors and CSA promised to correct the errors within several weeks. Approximately 8 months later, CSA submitted their corrected design which still had errors previously identified by Parsons, Inc.

On September 18, 2001, the City Council authorized the termination of CSA's design services. The City Council additionally authorized the filing of an action against CSA, and any other responsible parties, for the City's damages arising out of the Project. The City terminated CSA's design services for cause on October 2, 2001.

Since that time, the City filed an action against CSA and DMG for breach of written contract and professional negligence. CSA also filed an action against the City for, among other things, breach of contract.

In CSA's lawsuit against the City, the City brought a successful demurrer and eventually motion for summary judgment disposing of all of CSA's claims against the City. In addition, the City brought a Motion for Award of Attorney's Fees. The Court granted the City's motion and awarded \$148,478.50 for the City Attorney's fees incurred in defending that action. CSA has filed an appeal.

Mediation between the City, DMG, and CSA was conducted June 22 and 23, 2004 with a tentative agreement being reached with CSA on June 28, 2004. Due to the complexity of this case, it is recommended that the City accept \$2.3 million as a settlement of its lawsuit against its consultant CSA. In return for that amount, the City will agree not enforce its judgment against CSA and CSA will dismiss its appeal.

The Water Department restarted the project by hiring a consultant to study the feasibility of a public-private partnership to design-build-lease back a new Water Department facility at the same site. The Water Department expects to have the feasibility study completed by September 2004.

FISCAL IMPACT:

The \$2.3 million settlement will be used to assist funding the Central Facility project, CIP-73-338.0/73-338.1.

Mendes/Belock/MM

Aud. Cert. 2500081.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-116: City of San Diego “6 to 6” Program Extended School Day Program Funding.

(San Ysidro Community Area. District-8.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-148) ADOPTED AS RESOLUTION R-299565

Authorizing the City Manager to accept the State of California Department of Education grant funds (After School Education and Safety Program (ASESP) state grant funds) awarded to San Diego's "6 to 6" Extended School Day Program and to enter into agreements to expend these funds beginning FY 2005, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to enter into a Memorandum of Understanding with San Ysidro Unified School District to reflect additional grant funds;

Declaring that the additional funding for the City of San Diego's "6 to 6" program is contingent upon execution of San Ysidro Unified School District's MOU.

CITY MANAGER SUPPORTING INFORMATION:

On June 3, 2003, City Council adopted R-298024 to accept State of California Department of Education grant funds for fiscal years 2003-2007.

State and federal grant funds are passed to the City of San Diego via memorandum of understanding with the San Ysidro Unified School District. The current MOU expired June 30, 2004. An MOU is needed for the 2004/2005 school year and would reflect \$736,147 in pass-through grants based on the latest state allocations. Funding will be used to provide "6 to 6" programs at the following sites: Beyer, La Mirada, Ocean View Hills, Smythe, Sunset, and Willow elementary schools, and San Ysidro Middle School. Based on the Fiscal Year 2005 Budget, the City "6 to 6" Extended School Day Program, within the Community and Economic Development Department, will match the grant funding with \$8,937 to go towards San Ysidro Middle School.

Therefore, it is requested that City Council accept these grant funds for Fiscal Year 2005, approve the MOU with the San Ysidro Unified School District, and authorize the City Manager to enter into agreements with San Diego's "6 to 6" providers to expend these funds beginning in FY 2005.

Summary of Grant Fund Awards

<u>SOURCE</u>	<u>FUND</u>	<u>REVENUE ACCOUNT</u>	<u>PASS THRU AMOUNT</u>
State Department of Education- ASEP Cohort I	10185	76410	\$260,895
State Department of Education- ASEP Cohort III	10185	76410	<u>\$475,252</u>
			\$736,147

Herring/Cunningham/JD

Aud. Cert. 2500090.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-117: Revision to Council Policy 300-7 – Consultant Services Selection.

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-115) ADOPTED AS RESOLUTION R-299566

Amending Council Policy No. 300-7 titled “Consultant Services Selection” by changing the dollar figure for all consultant services to \$25,000, as set forth in the Council Policy.

CITY MANAGER SUPPORTING INFORMATION:

Council Policy 300-7 addresses procedures for Consultant Services Selection. The current policy was last revised in 1986. The procedure as outlined is still in use and functions fine. However, in light of current costs for professional services, the dollar values associated with the subject policy are outdated. Paragraph A.2 of the current policy requires official advertisement and full interview processes for all professional services in excess of \$3,000 and for licensed consultants for contracts in the amount of \$15,000.

In order to fulfill the requirements of the current policy, staff must advertise in the City's Official Paper and develop an official submission for qualifications, screen the qualifications, prepare the interview, paperwork and standard memos, schedule the interviews and debrief the consultants who did not get the job. You typically need three (3) project managers with technical expertise, plus one (1) staff member from the Equal Opportunity Contracting, for one full day (8 hrs.) for the interviews. The Consultant Coordinator, Senior Engineers and Deputy Director also are part of managing the process for a total number of approximately sixty (60) hours of effort. The cost to apply the current process described above is about \$4,000 on average. Noting that the contract could be as small as \$3,000, it is recommended to increase the amount for all consultant services stated in the current council policy to \$25,000.

With regard to project schedules, the interview process from beginning to end takes between 2 to 4 months. This is compared to two weeks with the proposed change. Since consultant selection is on the project schedules critical path, project timelines would save 1½ to 3½ months.

Therefore, City Council is being asked to increase this amount for all consultant services to \$25,000.

FISCAL IMPACT:

No direct impact to the General Fund. However, projects in the Capital Improvement Program could save 1½ to 3½ months on their project timelines with an average cost savings of \$4,000.

Herring/Oppenheim/AP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-118: Agreement with the San Diego Regional Energy Office for City Management of Energy Efficiency Programs under the Regional Energy Partnership.

(See City Manager Report CMR-04-091. The following were not available at Committee: City Manager Report CMR-04-170, CMR-02-124 and Statement of Collaboration from Mayor Murphy.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-47) ADOPTED AS RESOLUTION R-299567

Authorizing the City Manager to enter into agreements with the San Diego Regional Energy Office for City management of energy efficiency programs

under the Regional Energy Partnership, as set forth in detail in City Manager Report;

Authorizing the City Manager to apply for, accept, execute documents for, and comply with requirements regarding grant money from the California Public Utilities Commission for the payment of labor expenses associated with City management of the energy efficiency programs;

Authorizing the City Manager to use the above grant money to pay for labor associated with management of the San Diego Regional Energy Partnership programs and for energy efficiency measures installed under the programs.

RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S RECOMMENDATION:

On 6/30/2004, RULES voted 5 to 0 to accept the report. (Councilmembers Peters, Atkins, Maienschein, Madaffer, and Mayor Murphy voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-119: Encroachment Permit with Caltrans for the City's Construction and Operation of the Rancho Penasquitos Skate Park.

(Rancho Penasquitos Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-154) ADOPTED AS RESOLUTION R-299568

Authorizing the City Manager to execute the agreement entitled, "Encroachment Permit for Park & Ride Facility #4 to Allow Park Use," for the City's

construction and operation of the Rancho Penasquitos Skate Park, use of 21 parking spaces, and the City's assumption of maintenance and utility expenses for the Park & Ride.

CITY MANAGER SUPPORTING INFORMATION:

The Park and Recreation Department has received authorization via Council Resolution R-298425 (Adopted 9/23/03) to construct and operate a 20,000 square foot Skate Park on the easterly unimproved 1.04 acre portion of a 2.08 acre site at 10029 Carmel Mountain Road, next to an existing Park & Ride facility. Fee title to the entire site was acquired by the City with joint City and State funds through condemnation for use as a Park & Ride facility, to be constructed by Caltrans in two phases, pursuant to a Cooperative Agreement.

Since usage of the Park & Ride has been less than projected, Caltrans has stated it has no intention of developing the site beyond the existing Phase 1 Park & Ride, which covers half the site. Caltrans has agreed to work with the City to arrive at a solution which will be equitable and meet legal requirements to eliminate Caltrans rights to construct the Phase 2 Park & Ride, while the City moves forward with its Skate Park development on that portion of the site.

The City and State propose to execute an Encroachment Permit. The Encroachment Permit will be valid until July 29, 2011, or at the time a permanent replacement agreement is executed, whichever occurs first. The Encroachment Permit with Caltrans will allow for 21 parking spaces on the existing Rancho Penasquitos Park & Ride to be designated for use by Skate Park patrons. The consideration for this agreement will be the assumption by the City of the maintenance and utility expenses of the existing Park & Ride site, estimated by the Park and Recreation department to be \$11,100 per year.

The Encroachment Permit will remain in effect while the Skate Park remains open.

BASIC TERMS:

Term: Permit expires July 29, 2011

Use: City Public Skate Park, plus 21 designated parking spaces in Park & Ride

Consideration: Assumption by City of utility and maintenance expenses of Park & Ride

FISCAL IMPACT:

Estimated annual maintenance costs of \$11,100 to commence upon Skate Park official opening date. Funding has been approved effective 1/01/05. Fund 100, Dept. 442, Org. 2208.

Herring/Griffith/ACG

Aud. Cert. 2500118.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-120: Establishment of Commercial Vehicle Prohibition on the Ramp from Texas Street Southbound to Mission Avenue North of Madison Avenue.

(Greater North Park Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-111) ADOPTED AS RESOLUTION R-299569

Prohibiting commercial vehicles with a gross vehicle weight rating of 10,000 pounds or more from operating on the ramp from Texas Street southbound to Mission Avenue, north of Madison Avenue, pursuant to San Diego Municipal Code Section 85.04;

Authorizing the installation of the necessary signs and markings to be made on said streets, and the regulations hereinabove imposed shall become effective upon the installation of such signs.

CITY MANAGER SUPPORTING INFORMATION:

This action will authorize the City Manager to prohibit commercial vehicles with a rated capacity of five tons or more from using the ramp from Texas Street southbound to Mission Avenue north of Madison Avenue. By law, passenger buses, public utility vehicles, and commercial vehicles with an origin or destination on the affected street are exempt from this provision. Alternate

routes for commercial vehicles include Texas Street, and Madison Avenue. Council approval is required, according to Municipal Code Section 85.04. A petition representing 8 of 9 affected properties (89%) was submitted in support of this action.

Greater North Park Planning Committee supports this action.

FISCAL IMPACT:

\$350. Funds are available in the Streets Division for this purpose.

Mendes/Boekamp/VW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-121: Establishment of an Angle Parking Zone on E Street.

(Southeastern San Diego Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-107) ADOPTED AS RESOLUTION R-299570

Establishing angle parking on the south side of E Street between 33rd Street and 34th Street, pursuant to authority conferred by and in accordance with the provisions of Section 86.03 of the San Diego Municipal Code;

Authorizing the installation of the necessary signs and markings to be made on said street, and the regulations hereinabove imposed shall become effective upon the installation of such signs.

CITY MANAGER SUPPORTING INFORMATION:

This action will authorize the City Manager to install an angle parking zone on the south side of E Street between 33rd Street and 34th Street. This action is in accordance with Municipal Code Section 86.03. The south side of E Street is commercial. The adjacent businesses expressed concern with the shortage of parking and requested the City to convert existing parallel parking to angle parking. They submitted a petition signed by 100% of the fronting businesses for the installation of angle parking. Field survey by staff indicated that there is sufficient room for angle parking on the south side of the street. This action will result in a gain of seven parking spaces. Therefore, angle parking is recommended. In addition, the Southeastern San Diego Planning Committee supports this action.

FISCAL IMPACT:

\$700. Funds are available in the Street Division for this purpose.

Mendes/Boekamp/VW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-122: Grant Application to National Institute of Justice (NIJ) for No Suspect Casework DNA Backlog Reduction Program.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-149) ADOPTED AS RESOLUTION R-299571

Authorizing the Chief of Police to apply for, accept, manage, and expend this grant, including any contracts, amendments, extensions, or renewals, for a period

of up to five years, provided funding is made available by the United States Government;

Authorizing the Chief of Police to execute all aspects of program operation, including any contracts, amendments, extensions, or renewals, and to certify that the City will comply with all applicable statutory or regulatory requirements related to this program;

Declaring that any resources received hereunder shall not be used to supplant expenditures controlled by this body, and any personnel positions funded hereunder shall not be subject to hiring freezes.

CITY MANAGER SUPPORTING INFORMATION:

The proposed grant will assist the DNA unit of the San Diego Police Department Crime Laboratory in performing casework to identify and test backlogged forensic DNA casework samples in no-suspect cases thus reducing backlog. This grant is reimbursed for work performed in cases both with and without a sexual component, if not covered by the acceptance criteria of the Cold Hit Project.

The Department of Justice will administer the grant as follows:

Supplies and Equipment

- 1) Seven DNA profiler and co-filer typing kits will be ordered and distributed to SDPD
Three kits for year one totaling \$11,370 and equipment for year one totaling \$73,500
Four kits for year two totaling \$15,160

Personnel Costs

- 2) 170 hours of analyst overtime and fringe for Criminalist II (includes potential salary increases over the 2-year period) will be dispensed upon completion of a case. The Crime Lab will submit timesheets to DOJ of overtime worked.
85 hours of overtime for year one totaling \$5,810 and,
85 hours of overtime for year two totaling \$5,810

FISCAL IMPACT:

This grant will provide \$111,650 over a two-year period. In the first year, \$90,680 will be spent and in the second year \$20,970 will be spent.

The grant requires no matching funds, and there is no requirement to continue grant-funded services or activities after grant funds are expended.

Ewell/Lansdowne/DJW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-123: Appointment of Management Team for Purpose of Meeting and Conferring with Employee Organizations.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-135) RETURNED TO THE CITY MANAGER

Designating the following persons as members of the Management Team for purposes of meeting and conferring with the City's recognized employee organizations, pursuant to the MMBA and Council Policy 300-06:

P. Lamont Ewell, City Manager

Cathy Lexin, Human Resources Director

Michael McGhee, Labor Relations Manager

Gloria Chavez, Labor Relations Officer

Margaret Mendez, Labor Relations Officer

Scott Chadwick, Labor Relations Officer

Christopher Morris, Head Deputy City Attorney

Michael Rivo, Deputy City Attorney

Joseph Sanchez, Deputy City Attorney

Julianne Doi, Deputy City Attorney

Appointing the Personnel Director and the Retirement Administrator as members of the Management Team for all purposes except for meeting and conferring with the City's employee organizations.

CITY MANAGER SUPPORTING INFORMATION:

In accordance with the provisions of California Government Code Section 3500, et. seq., commonly referred to as the Meyers-Milias-Brown Act (MMBA), the City Council has adopted Council Policy 300-6 which provides the rules and regulations governing employer-employee relations. Contained in MMBA and Council Policy 300-6 is the authority for the City Council to designate a Management Team as its representative to carry out the meet and confer process.

As a result of recent changes in personnel, it is recommended that the attached Resolution be adopted which designates the following persons as the Management Team for purposes of meeting and conferring with employee organizations: P. Lamont Ewell, City Manager; Cathy Lexin, Human Resources Director; Mike McGhee, Labor Relations Manager; Gloria Chavez, Labor Relations Officer; Margaret Mendez, Labor Relations Officer; Scott Chadwick, Labor Relations Officer; Chris Morris, Head Deputy City Attorney; Michael Rivo, Deputy City Attorney; Joseph Sanchez, Deputy City Attorney; Julianne Doi, Deputy City Attorney; and that the Personnel Director and Retirement Administrator be appointed as members of the Management Team, pursuant to Council Policy 300-6 for all purposes except meeting and conferring with employee organizations.

FISCAL IMPACT:

None.

Lexin/McGhee

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO RETURN THIS ITEM TO THE CITY MANAGER DUE TO THE LACK OF TIME. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-124: Appointments and Reappointments to the Science and Technology Commission.

(See memorandum from Mayor Murphy dated 7/29/2004, with resumes attached; and memorandum from Councilmember Lewis dated 12/9/2002.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-156 Cor. Copy) ADOPTED AS RESOLUTION R-299572

Council confirmation of the following appointments and reappointments by the Mayor, to serve as members of the Science and Technology Commission, for terms as indicated:

<u>NAME</u>	<u>TERM EXPIRES</u>
Craig S. Andrews (reappointment)	May 31, 2006
Tyler Orion (reappointment)	May 31, 2006
Carrie Stone (reappointment)	May 31, 2006
Maurice Wilson (reappointment)	May 31, 2006
Julie Meier Wright (reappointment)	May 31, 2006
Daniel Chang	May 31, 2006

(replacing Kasey Phimmasone, who has resigned)

Kristopher J. Lichter May 31, 2006
(replacing Richard Polanco, Jr., who has resigned)

Marc T. Nemer May 31, 2006
(replacing Vicki Marion, who has resigned)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT CONFIRMING THE APPOINTMENTS AND REAPPOINTMENTS. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-125: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1246) ADOPTED AS RESOLUTION R-299573

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L-State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-126: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-43) ADOPTED AS RESOLUTION R-299574

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION: GEN'L-State of Emergency Due to Economic
Circumstances in the San Diego-Tijuana Border Region

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-127: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-101) ADOPTED AS RESOLUTION R-299575

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

CITY MANAGER SUPPORTING INFORMATION:

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION: GEN'L-Local Health Emergency Due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

* ITEM-128: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1233) ADOPTED AS RESOLUTION R-299576

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L-State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-150: Time Alloted for Councilmember Debate at Council Meetings.

(See memorandum from Councilmembers Maienschein, Zucchet, Inzunza, and Peters dated 5/11/2004.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2004-143) RETURNED TO THE RULES COMMITTEE
CONSULTANT

Introduction of an Ordinance amending the San Diego Municipal Code by amending Chapter 2, Article 2, Division 1, by amending Section 22.0101, all relating to the Permanent Rules of the Council.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S
RECOMMENDATION:**

On 5/19/2004, RULES voted 3 to 2 to support limiting Council debate as outlined in the May 11, 2004 memo signed by Councilmembers Maienschein, Zucchet, Inzunza, and Peters. (Councilmembers Peters, Maienschein, and Mayor Murphy voted yea. Councilmembers Atkins and Madaffer voted nay.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

MOTION BY ATKINS TO RETURN THIS ITEM TO THE RULES COMMITTEE CONSULTANT DUE TO THE LACK OF TIME. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Tax Rate Ordinance for Fiscal Year 2005.

(See City Manager Report CMR-04-169.)

CITY MANAGER'S RECOMMENDATION:

Introduce and adopt the following ordinance:

(O-2004-126) INTRODUCED AND ADOPTED AS ORDINANCE
O-19311 (New Series)

Introduction and adoption of an Ordinance fixing the Tax Rates and Levying
Taxes for the Fiscal Year 2004-2005.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:38 a.m. – 11:39 a.m.)

MOTION BY PETERS TO INTRODUCE, DISPENSE WITH THE READING, AND
ADOPT THE ORDINANCE. Second by Maienschein. Passed by the following vote:
Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea,
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the November 2, 2004 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	5/28/2004	158	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee.
Wednesday	6/16/2004	139	Rules Committee review of ballot proposals.
Monday	6/21/2004	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee.
Monday	6/28/2004	127	Council adopts propositions for ballot; directs City Attorney to prepare ordinances.
Monday	through 7/19/2004	to 106	
Monday	7/26/2004	99	Council adopts ordinances prepared by City Attorney.
Friday	8/06/2004	88	Last day for City Clerk to file with Registrar of Voters all elections material.
Thursday	8/19/2004	75	Last day to file ballot arguments with City Clerk.

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

ITEM-251: ARGUMENTS SUPPORTING OR OPPOSING PROPOSITIONS

For propositions approved by the Council for submittal to the qualified voters of the City of San Diego at the Municipal General Election to be held on Tuesday, November 2, 2004, the City Clerk has fixed 5:00 p.m. on Thursday, August 19, 2004, as a reasonable date prior to such election after which no arguments for or against City Propositions may be submitted to the Clerk.

Any argument for or against any City proposition shall not exceed 300 words in length and may be filed by the Council, or any member or members of the Council authorized by the Council, or the bona fide sponsors or proponents of the measure, or any bona fide association of citizens or individual voter, or any combination of voters and associations.

All arguments must be accompanied by a statement signed by each author that the argument is true and correct to the best of his/her knowledge and belief. (Forms for this statement are available in the Office of the City Clerk.)

An argument shall not be accepted unless accompanied by the name or names of the person or persons submitting it, or if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers. No more than five signatures shall appear with any argument submitted. At least one of the individuals signing the argument must be a registered voter in the City of San Diego. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk.

Arguments shall be submitted to the City Clerk at the Office of the City Clerk, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, California, 92101.

ITEM-252: Notice of Pending Final Map Approval – Black Mountain Ranch North Village Unit No. 1.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "Black Mountain Ranch North Village Unit No. 1" (T.M. No. 40-0528), a copy of which is available for public viewing at the Office of the San Diego City Clerk. Said project is located northeasterly of Camino Del Sur and Paseo Del Sur in the Black Mountain Ranch Community Plan Area in Council District 1. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-253: Notice of Pending Final Map Approval – Black Mountain Ranch North Village Unit No. 2.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Black Mountain Ranch North Village Unit No. 2” (T.M. No. 40-0528), a copy of which is available for public viewing at the Office of the San Diego City Clerk. Said project is located northeasterly of Camino Del Sur and Paseo Del Sur in the Black Mountain Ranch Community Plan Area in Council District 1. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the

map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-254: Notice of Pending Final Map Approval – El Cortez.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “El Cortez” (T.M. No. 18011), a copy of which is available for public viewing at the Office of the San Diego City Clerk. Said project is located in the northeasterly of Ash Street and Seventh Avenue in Centre City Community Plan Area in Council District 2. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-255: Notice of Pending Final Map Approval – Riviera Drive Residences.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Riviera Drive Residences” (T.M. No. 99-1170), a copy of which is available for public

viewing at the Office of the San Diego City Clerk. Said project is located northwesterly of Riviera Drive and Mooreland Drive in the Pacific Beach Community Plan Area in Council District 2. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-256: Notice of Settlement Claim for Property Damage to Jocie Salim's Residence.

(R-2005-90 Cor. Copy)

A Resolution approved by the City Council in Closed Session on Monday, July 12, 2004 by the following vote: Peters-yea; Zucchet-yea; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea. Deputy Mayor Atkins-not present;

Authorizing the City Manager to pay the total sum of \$420 to Jocie Salim and her attorney, in the settlement of each and every claim by Jocie Salim against the City, its agents and employees, resulting from property damage to Jocie Salim's residence on August 27, 2003;

Authorizing the City Auditor and Comptroller to pay the sum of \$165,463.67 to Luth & Turley, in full settlement of all claims by Luth & Turley arising out of property damage to Jocie Salim's residence;

Authorizing the City Auditor and Comptroller to pay up to the sum of \$25,000 to Residence Inn in full settlement of all claims by Residence Inn arising out of property damage to Jocie Salim's residence.

NOTE: This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.



ITEM-330: La Jolla Children's Pool Joint Use.

(See City Manager Report CMR-04-135; Meeting Guide submitted by James Hudnall and Gabriel Solmer; and Report from Martha Patricia Argomede Weisz dated 6/17/2004. La Jolla Community Area. District-1.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-112) CONTINUED TO TUESDAY, SEPTEMBER 14, 2004

Authorizing the City Manager to:

- a) perform preliminary studies, initiate design and permit applications, and actions incidental to these functions, in order to comply with the accepted City Council recommendation, noting that this action does not constitute a decision to proceed with construction of the project as recommended, and does not foreclose the analysis of alternatives or mitigation measures that would ordinarily be a part of environmental or permit review for the Project;
- b) return to City Council with the appropriate environmental document for review and certification for approval in order to comply with the accepted recommendation for the Project; and

- c) take all necessary actions to seek, apply for, accept, and secure donations in order to comply with the accepted recommendation for the Project.

Authorizing the City Auditor and Comptroller to:

- a) establish a special interest-bearing fund for the La Jolla Children's Pool donations in reference to the Project;
- b) add CIP-29-872.0, La Jolla Children's Pool – Joint Use, to the Fiscal Year 2005 Capital Improvements Program for the Project;
- c) increase the Fiscal Year 2005 Capital Improvement Program budget in CIP-29-872.0, La Jolla Children's Pool – Joint Use, up to the amount received for the Project; and
- d) appropriate and expend donations, if secured, up to the amounts secured for purposes of design initiation, environmental documents, permit applications, and actions incidental to these functions in order to comply with the accepted recommendation from CIP-29-872.0, La Jolla Children's Pool – Joint Use, provided that the City Auditor and Comptroller first furnishes a certificate certifying that the funds are, or will be, on deposit with the City Treasurer.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 6/23/2004, NR&C voted 5 to 0 to forward to the full City Council with no recommendation. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

On April 1, 2003, the Mayor and City Council directed the City Manager to return to the Natural Resource and Cultural Committee (NR&C) this year with a strategy to do the following: "In compliance with Federal Law, to reduce pollution levels in the sand and to return the Children's Pool to recreational use for children, including accessible uses, thus restoring this area to the joint use of seals, divers, fishermen, children and their families." A report was given before the NR&C on June 23, 2004. The NR&C voted unanimously to refer the matter to the full City Council.

The Manager's Report #04-135 was presented to the NR&C. A strike out/underlined version is provided with the only changes being correcting a typographical error for the Technical Advisory Committee members; a clarification of the proximity of the Children's Pool to the La

Jolla Underwater Park; and, a clarification that Ellen Browning Scripps contracted with the builder of the breakwater as opposed to the City of San Diego. Otherwise, the content, information and recommendations remain unchanged.

The City Council is being requested to approve initiation of the design of a seasonal joint use recommendation provided by the City Manager. Since funds, permits and environmental review are required, this action does not constitute a decision to proceed with construction of the project, nor does it foreclose analysis of alternatives or mitigation measures that would ordinarily be part of environmental or permit review. In addition, upon full review of: a) any permit conditions (if any), b) a completed environmental document, and c) the construction documents, City Council action will be required to authorize the construction project.

FISCAL IMPACT:

1. The estimated cost to dredge the Children's Pool ranges between \$250,000 and \$500,000. This cost includes construction documents, permits, environmental, administration, and construction.
2. The cost to provide testing per year is \$3,000. This cost may potentially be borne by the County Environmental Health Department.
3. The cost to rework the soil on a yearly basis per the County Environmental Health Department's non-advisory status is \$5,000 per year.
4. The cost to provide dredging every three to five years, budgeted on a yearly basis is \$50,000.
5. The cost for a limited full time ranger position with associated non personnel expense to provide education interpretation of the area and manage the mixed use of the site is \$75,000 per year.

Herring/Oppenheim/AP

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:33 a.m. – 11:33 a.m.)

MOTION BY PETERS TO CONTINUE TO TUESDAY, SEPTEMBER 14, 2004, DUE TO THE LACK OF TIME. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-331: Two actions related to Amendment to the Undergrounding of Utilities 2003 Calendar Year Annual Allocation for Tennyson Street from Chatsworth Boulevard to Willow Street.

(Midway Community Plan Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-27) RETURNED TO THE CITY MANAGER

A Resolution establishing an Underground Utility Districts financed through the City of San Diego Undergrounding Surcharge Fund.

Subitem-B: (R-2005-28) RETURNED TO THE CITY MANAGER

Certifying that the Addendum to Environmental Impact Report LDR No. 23247(a), on file in the office of the City Clerk has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.) as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Tennyson Street from Chatsworth Boulevard to Willow Street and Sterne Street from Tennyson Street to Willow Street Underground Utility District;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding this project.

CITY MANAGER SUPPORTING INFORMATION:

The proposed action to amend the 2003 annual allocation is made at the request of Council District 2 and is in accordance with Council Policy 600-08.

The Tennyson Street underground project is being coordinated with a City CIP project to replace concrete streets to prevent the future trenching of the new concrete streets. The formation of

Tennyson Street and Chatsworth Boulevard to Willow Street and Sterne Street from Tennyson Street to Willow Street Underground Utility District will require the removal and/or underground conversion of certain overhead power and communications wires with poles within the established boundary. The expense of the underground installation and removal of overhead facilities within the right-of-way (street and sidewalk area) will be the responsibility of the utility companies in accordance with California Public Utilities Commission Rules.

It is the responsibility of the individual property owner(s) for the trenching and other related work to convert their property to receive electrical, telecommunication and cable television from an underground service. However, San Diego Gas and Electric will offer to property owner(s) within the Underground Utility Districts, to perform all the work necessary to convert private property, including necessary conduits for telephone and cable facilities at no cost to the property owner(s). In order to take advantage of San Diego Gas and Electric's offer to perform this work, property owners are required to sign a Permit to Enter Form.

FISCAL IMPACT:

SDG&E Cost: The amount of \$925,000 was previously authorized for the project known as Garrison Street from Clove Street to Rosecrans Street as part of the FY03 Annual Allocation (Case 8209). This action would replace the Garrison Street Project with a project known as the Tennyson Street from Chatsworth Boulevard to Willow Street and Sterne Street from Tennyson Street to Willow Street. The construction cost of \$1,113,078 will be financed through the use of SDG&E Annual Allocation Funds as directed by the Public Utilities Commission (Case 8209). The fiscal impact of \$18,000 to the City is the indirect cost of such street light replacement, and other related work. These funds will be available in Fund No. 30100, Undergrounding Surcharge Fund, contingent upon receipt of funds from San Diego Gas & Electric. The expenditure has been previously approved by R-295894. No additional expenditure authorization is required as part of this action.

Mendes/Belock/AO

FILE LOCATION: SUBITEMS A & B: STRT K-321 (38)

COUNCIL ACTION: (Time duration: 11:33 a.m. – 11:34 a.m.)

MOTION BY COMMON CONSENT TO RETURN THIS ITEM TO THE CITY MANAGER DUE TO THE LACK OF TIME. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-332: Schmitter Condominiums.

Matter of approving, conditionally approving, modifying or denying an application for a Coastal Development Permit, Tentative Parcel Map, including a Waiver to the requirement to underground existing overhead utilities, and a Easement Abandonment to demolish two existing residential buildings and construct a 5,107 square-foot, three-story triplex condominium with 1200 square feet of garage area and 1261 square feet of deck area on a 4,648 square-foot site, located at 3902 Bayside Walk in the Mission Beach Community Planning Area.

(CDP No. 47233/TPM No. 119271/Easement Abandonment No. 88216/Project No. 19831. Mission Beach Community Plan Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolution in subitem A to grant the permit; adopt the resolution in subitem B to grant the map; and adopt the resolution in subitem C:

Subitem-A: (R-2005-) GRANTED PERMIT, ADOPTED AS RESOLUTION
R-299577

Adoption of a Resolution granting or denying Coastal Development Permit No. 47233, with appropriate findings to support Council action.

Subitem-B: (R-2005-) GRANTED MAP, ADOPTED AS RESOLUTION
R-299578

Adoption of a Resolution granting or denying Tentative Parcel Map No. 119271, with appropriate findings to support Council action.

Subitem-C: (R-2005-113) ADOPTED AS RESOLUTION R-299579

Adoption of a Resolution adopting findings for Easement Abandonment No. 88216;

That the general utility and access easement located within the Mission Beach Planning area in connection with coastal development permit, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20228-B, marked as Exhibit "B," is ordered vacated;

That the City Clerk shall then cause a certified copy of this resolution, with exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

OTHER RECOMMENDATIONS:

Planning Commission on July 22, 2004, voted 6-0 to approve; no opposition.

Ayes: Steele, Ontai, Lettieri, Schultz, Chase, Otsuji
Not present: Garcia

The Mission Beach Precise Planning Board, on April 20, 2004, voted 13-0-0 to recommend approval of this project with no conditions.

SUPPORTING INFORMATION:

The project proposes to demolish 2 existing one-story single-family homes, and to construct a new three-story, 3-unit condominium project on a 4,648 square-foot site at 3902 Bayside Walk, within the Mission Beach Planning area. The applicant has requested a waiver to the requirement to underground existing overhead utilities and qualifies for the waiver in accordance with Council Policy 600-25. A Coastal Development Permit is required for this project because both the proposed demolition and new construction constitute coastal development and all new development within the Coastal Zone requires a Coastal Development Permit. A Tentative map is required in order to create three separate ownerships for each of the three new condominium units. An Easement Abandonment is required to abandon an existing 8-foot wide general utility easement running east-west along the northern property line. The general utility easement contains both water and sewer lines, which would be relocated into Bayside Lane as a part of this project.

Water Quality Impact Statement:

During construction, this project will comply with Best Management Practices (BMPs) through preparation of a Storm Water Pollution Prevention Plan (SWPPP) in conjunction with the building plans. The SWPPP will identify all BMPs to be implemented during the construction phase to reduce /eliminate discharges of pollutants into the adjacent natural areas. The post development Best Management Practices (BMPs) incorporated into the project consists of site design, source control and treatment. The project's post development runoff will be collected and conveyed by public and private drainage systems. The post-construction BMPs detailed in the Water Quality Technical Report have been evaluated and accepted by the City Engineer. The

property owner(s) will be responsible for the long term maintenance of all private drainage facilities.

FISCAL IMPACT:

All costs associated with the project are recovered from a deposit provided by the applicant.

Loveland/Halbert/DES

LEGAL DESCRIPTION:

The project site is located in the City of San Diego on a 4,648 square-foot site at 3902 Bayside Walk in the R-N Zone of Mission Beach Planned District, within the Mission Beach Community Plan, Coastal Overlay (appealable), Coastal Height Limit, and Beach Parking Impact. Council District 2. APN 423-556-05 and -06.

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15332 (in-fill development of 5 acres or less).

FILE LOCATION: SUBITEMS A, B & C: LUP-Schmitter Condominiums,
08/10/04 (65)

COUNCIL ACTION: (Time duration: 11:20 a.m. – 11:21 a.m.)

MOTION BY ZUCCHET TO ADOPT THE RESOLUTION IN SUBITEM A TO GRANT THE PERMIT; ADOPT THE RESOLUTION IN SUBITEM B TO GRANT THE MAP; AND ADOPT THE RESOLUTION IN SUBITEM C. Second by Frye.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



[ITEM-333:](#) Appeal of Environmental Determination for the Mi Arbolito Project.

Matter of the appeal by Bankers Hill, Hillcrest Park West Community Preservation Group in care of Johnson and Hanson, L.L.P., of the decision by City staff that the subject project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the State CEQA Guidelines.

(See City Manager Report CMR-04-139. Uptown Community Plan Area. District-3.)

(Continued from the meeting of July 13, 2004, Item 335, at Councilmember Inzunza's request, for further review.)

NOTE: Hearing open. No testimony taken on 7/13/2004.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution to deny the appeal, and uphold the Staff determination that the Mi Arbolito Project is exempt from the California Environmental Quality Act per section 15332 of the State CEQA Guidelines.

(R-2005-) CONTINUED TO TUESDAY, SEPTEMBER 7, 2004

Adoption of a resolution granting or denying the appeal, and upholding or overturning the Environmental Determination, with appropriate findings to support Council action.

CITY MANAGER SUPPORTING INFORMATION:

The proposed project is a 14-story, 14-unit multi-family residential building over underground parking. The 10,247-square-foot site is zoned MR-400 and is located on the northeast corner of the intersection of Sixth Avenue and Upas Street.

This appeal is before the City Council because of an amendment to CEQA. Effective January 1, 2003, Section 21151(c) of CEQA has been amended as follows: *If a non-elected decision making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision making body, if any.*

Pursuant to this amended legislation, Banker's Hill, Hillcrest, Park West Community Preservation Group c/o Johnson & Hanson, LLP filed an appeal of the staff environmental determination to exempt the project on April 12, 2004. However, this new appeal process applies only to the environmental determination.

The appeal is partly based on the allegation that an Environmental Impact Report (EIR) should have been prepared for the project. CEQA and case law require the preparation of an EIR when

there is a fair argument that there is substantial evidence, in light of the whole record, that a project may have a significant impact on the environment. Section 21080(e) of CEQA states that ". . . substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative..."

The exemption prepared for this project is a categorical exemption found in Section 15332 of the State CEQA guidelines (Infill Development Projects). The appeal is also partly based on the following standard for using categorical exemptions:

Section 15300.2 (c) - Significant effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to **unusual circumstances** [emphasis added].

Finally, the appeal is also based on the applicability of the following conditions. A finding that these conditions have been met is a necessary precedent to using the Section 15332 exemption:

Section 15332 (a) - The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

Section 15332 (d) - Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

The staff response to each of these challenges has been provided below within the list of the appellants' specific concerns.

Pursuant to the issued permits noted below, construction of the underground parking garage is currently underway on the site.

<u>Date Submitted</u>	<u>Permit Type</u>	<u>Application #</u>	<u>Status</u>
March 27, 2003	Map Waiver and SDP	6686	Not Completed; Withdrawn
June 23, 2003	Grading/Temp Shoring	10278	(Approved, W-51473) Closed.
July 16, 2003	Building Permit: Footings	11489	(Approved, # 21521)
October 2, 2003	Building Permit: Building	15900	Approval Pending
January 7, 2004	Tentative Map	19032	Withdrawn

Because the Map Waiver and Tentative Map applications placed the City on notice that the project may require an approval by the Planning Commission (which would be deemed a "discretionary" decision for purposes of CEQA), the Environmental Analysis Section (EAS) of the Development Services Department reviewed this project assuming that the applications may be resubmitted. Since this project did not include an application for a Tentative Map or Map Waiver at the time it was reviewed by EAS, EAS could not deem this project to be a "discretionary" project for CEQA purposes. However, since Mi Arbolito, LLC had twice placed the City on notice that the project may require a discretionary decision; EAS considered the CEQA review requirements for this project assuming it may include a discretionary decision in the future.

FISCAL IMPACT:

All costs associated with processing approvals of this project are paid from an existing fee paid by the applicant and, possibly, a future deposit account that would be maintained by the applicant if the applicant re-submits an application for a discretionary approval. Staff costs associated with processing this appeal have been borne by the Development Services Department because there is currently no deposit on account with Development Services.

Loveland/Christiansen/CZ

FILE LOCATION: LUP-Appeal of Environmental determination for the Mi Arbolito Project, 07/13/04 (65)

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

MOTION BY ATKINS TO CONTINUE TO TUESDAY, SEPTEMBER 7, 2004, DUE TO THE LACK OF TIME. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S400: Dr. Clive Granger Day.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-162) CONTINUED TO MONDAY, SEPTEMBER 13, 2004

Declaring August 9, 2004 to be "Dr. Clive Granger Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

MOTION BY PETERS TO CONTINUE TO MONDAY, SEPTEMBER 13, 2004, DUE TO THE LACK OF TIME. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maisenschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S401: The National Conference for Community and Justice Anytown Day.

DEPUTY MAYOR ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-159) ADOPTED AS RESOLUTION R-299587

Commending the National Conference for Community and Justice Anytown Program for its mission to fight bias, bigotry, and racism;

Proclaiming August 9, 2004 to be "The National Conference for Community and Justice Anytown Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-S402: Spousal Abuser Prosecution Program (SAPP) Grant.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-160) ADOPTED AS RESOLUTION R-299580

Authorizing the City Attorney's Office to apply for, accept, and expend a \$59,395 Spousal Abuser Prosecution Program (SAPP) Grant from the State of California Department of Justice under the terms and conditions outlined in the letter to Gael Strack, Assistant City Attorney, from Attorney Bill Lockyer;

Agreeing to hold the Department of Justice and the State of California harmless from any liability arising out of the performance of the grant agreement, including court actions or damages, and certifying that the City will not use the grant to supplant local expenditures.

SUPPORTING INFORMATION:

On November 13, 1994, the City Attorney's Child Abuse/Domestic Violence Unit received notification that they had been awarded a \$60,000 grant from the California Department of Justice for the prosecution of domestic violence cases. Over the past ten years; the City Attorney's Office received funding which was used to enhance the advocacy and investigative efforts. Fiscal Year 2005 marks the eleventh year that the City Attorney's Office has been awarded funding under the Spousal Abuser Prosecution Program. For Fiscal Year 2005, \$59,395 has been awarded with a 20% match requirement, which will be met through existing staff salaries.

This grant award is contingent upon City Council approval. The proposed resolution authorizes the City Attorney to apply for and enter into a grant agreement with the Department of Justice. It

also indemnifies the Department of Justice from any claims that arise from the City Attorney's use of funds and certifies that the City will not use grant funds to supplant local expenditures.

Gwinn

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-S403: Establishing a Two-Hour Unmetered Parking Zone on 25th Street.

(Greater Golden Hill Community Area. District-8.)

(Continued from the meeting of August 2, 2004, Item 109, at the request of Councilmember Inzunza, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-65) ADOPTED AS RESOLUTION R-299581

Establishing a two-hour unmetered time limit parking zone, effective between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, with Sunday and certain holidays excepted on the east side of 25th Street between Broadway and C Street, San Diego, California, pursuant to authority conferred by and in accordance with the provisions of Section 86.04 of the San Diego Municipal Code;

Authorizing the installation of the necessary signs and markings to be made on said streets; the regulations hereinabove imposed shall become effective upon the installation of such signs.

CITY MANAGER SUPPORTING INFORMATION:

This action will authorize the City Manager to install a two-hour unmetered time limit parking on the east side of 25th Street between Broadway and C Street. The two-hour time limit zone will be effective from 8 a.m. to 6 p.m., Monday through Saturday, with Sundays and certain holidays excepted. This action is in accordance with Municipal Code Section 86.04 and Council Policy 200-04, Installation or Removal of Time Limit Parking Zones and Parking Meter Zones.

25th Street is a commercial street. The businesses expressed concern with the parking for long durations impacting their businesses and requested time limit parking. They submitted a petition signed by 82% of the fronting businesses to initiate a parking study by the City. The parking duration study indicated that time limit parking is recommended.

In addition, the Golden Hill Planning Committee supports this action.

FISCAL IMPACT:

\$800. Funds are available in the Streets Division for this purpose.

Mendes/Boekamp/VW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-S404: National Night Out.

COUNCILMEMBER MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-152) ADOPTED AS RESOLUTION R-299582

Calling upon the citizens of San Diego to join the San Diego Police Department and the National Association of Town Watch in supporting the “21st Annual National Night Out” on August 3, 2004;

Proclaiming Tuesday, August 3, 2004 to be “National Night Out” in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S405: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a “Notice of Completion and Acceptance of Subdivision Improvement Agreement” indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION

COMMUNITY AREA

Scripps Ranch North Unit No. 18

Miramar Ranch North

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director of Development Services or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.

- * ITEM-S406: Amendment No. 2 to the Agreement with Tetra Tech for Sewer Pump Stations 18 and 19 Rehabilitation/Replacement Projects.

(See memorandum from Patti Boekamp dated 7/22/2004. Pacific Beach Community Area. District-2.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2005-10 Cor. Copy) INTRODUCED, TO BE ADOPTED ON TUESDAY,
SEPTEMBER 7, 2004

Introduction of an Ordinance authorizing the City Manager to execute Amendment No. 2 to the Agreement with Tetra Tech, for additional engineering consulting services for Sewer Pump Stations 18 and 19 Rehabilitation/Replacement Project, in an amount not to exceed \$97,845 and under the terms and conditions set forth in the Agreement.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 8/4/2004, NR&C voted 4 to 0 to approve. (Councilmembers Lewis, Frye, Madaffer, and Inzunza voted yeas. Councilmember Zucchet not present.)

SUPPORTING INFORMATION:

On August 2, 1999 the City entered into an agreement with Tetra Tech for \$100,800 to provide engineering services for the pre-design of Sewer Pump Stations 18 and 19. On August 7, 2000, the City Council authorized Amendment Number 1 to the contract with Tetra Tech to include engineering services for the design of both pump stations. This amendment brought the total contract amount to \$760,206 (Document RR-293649). The design scope includes the rehabilitation of Sewer Pump Station 18 located at 597 Loring Street in Pacific Beach and the replacement of Sewer Pump Station 19 located at 201 Bird Rock Avenue in La Jolla.

During the design stage, City staff was required to acquire several permits. A Site Development Permit, Building Permit, and Coastal Development Permit from the California Coastal Commission were required. Permit assistance was included in the scope of work with the consultant, however, the work to obtain the permits was more than anticipated. The process of acquiring each permit required several meetings and changes to both projects. As a result of the changes, the consultant anticipates there will also be an additional scope to respond to contractor

requests for information during construction. This second amendment is for \$97,845, \$65,210 for Sewer Pump Station 19 and \$32,635 for Sewer Pump Station 18, to cover additional costs for permitting and construction support.

Council Action is required to approve Amendment Number 2 to the contract agreement with Tetra Tech for an additional amount not to exceed \$97,845. Funding for this purpose is available from Sewer Fund 41506 CIP-46-106.0, Annual Allocation - Sewer Pump Station, which was previously authorized on Document RR-297815 and RR-297851 on April 7, 2003 and April 21, 2003, respectively.

FISCAL IMPACT:

The consultant agreement previously authorized was for \$760,206. The second amendment will authorize an additional compensation not to exceed \$97,845 for consulting services. Funding of \$97,845 for this purpose is available from Sewer Fund 41506, CIP-46-106.0, Annual Allocation- Sewer Pump Stations, which was previously authorized on Resolution Nos. 297851 and 297815. The total estimated cost for Pump Station 18 is \$3,634,705 and for Sewer Pump Station 19 is \$4,755,061, which includes design inspection and construction.

Mendes/Boekamp/HR

Aud. Cert. 2500060.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:18 a.m.)

CONSENT MOTION BY ATKINS TO INTRODUCE. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S407: In the matter of Modifying Prior Direction to the City Attorney Concerning the Impartial Analysis for the Ballot Measure Regarding Composition of the Retirement Board.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-169) ADOPTED AS RESOLUTION R-299583

Declaring that the Council of the City of San Diego clarifies its prior action to be consistent with the intention of the Council and directs the City Attorney to interpret the qualification criteria for appointment to preclude a stockbroker or bond broker from being eligible to serve on the Retirement Board only if that stockbroker or bond broker is actively engaged in doing business with the City of San Diego or the San Diego City Employees' Retirement System.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:35 a.m. – 11:38 a.m.)

MOTION BY MADDAFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S408: California Public Utilities Commission's (CPUC) Cost Allocation of Energy Contracts Purchased by State's Department of Water Resources During the Recent Energy Crisis.

(See City Manager Report CMR-04-185.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-168) ADOPTED AS RESOLUTION R-299584

Opposing proposed decisions by the California Public Utilities Commission (CPUC) that are based on percentage allocations of the DWR Contract costs among the utilities based on percentages, contract assignment, or "cost follows contract" methodologies;

Supporting SDG&E request to the CPUC that DWR Contract costs should be equitably allocated among the utilities on the basis of use, as they have been in interim allocations to date.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:22 a.m. – 11:23 a.m.)

MOTION BY PETERS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S409: Request Proposal for Acquisition of Fire and Rescue Helicopter.

(See City Manager Report CMR-04-184.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-172) ADOPTED AS AMENDED AS RESOLUTION R-299585

Directing the City Manager to issue a Request for Proposal (RFP) to companies in the business of acquiring, completely refurbishing and overhauling, upgrading, and delivering one (1) completed Bell 212HP helicopter configured for emergency multi-missions;

Directing the City Manager to return to the City Council with a recommendation to lease-purchase one (1) helicopter from a vendor selected through the City's RFP process utilizing the City's "Equipment and Vehicle Financing Program" over a ten (10) year payment option;

Authorizing the City Auditor and Comptroller to add 1.09 Pilot and 0.33 Chief Maintenance Engineer to the Fiscal Year 2005 annual personnel appropriation within the Fire-Rescue Department using the existing Fiscal Year 2005 non-personnel expense budget.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:39 a.m. – 11:40 a.m.)

MOTION BY ATKINS TO ADOPT THE RESOLUTION AS AMENDED TO DIRECT THE CITY MANAGER TO COME BACK TO COUNCIL WITH RECOMMENDATIONS FOR A LEASE PURCHASE OF ONE HELICOPTER FROM A SELECTED VENDOR. AT THAT TIME THE CITY MANAGER WILL ALSO COME BACK WITH AN OPERATIONAL PERFORMA SO THAT ALL COSTS ARE BEFORE THE COUNCIL. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S410: Notice of Settlement Claim for a Road Traffic Accident with Bobbie Jo Ayala.

(R-2005-129) ADOPTED AS RESOLUTION R-299538

A Resolution approved by the City Council in Closed Session on Monday, August 2, 2004 by the following vote: Peters-yea; Atkins-yea; Lewis-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea. Councilmembers Zucchet and Maienschein not present.

Authorizing the City Manager to pay the total sum of \$525,000 to Bobbie Jo Ayala and her attorney, in the settlement of each and every claim by Bobbie Jo Ayala against the City, its agents and employees, resulting from injuries received in a road traffic accident on January 18, 2002.

Authorizing the City Auditor and Comptroller to issue two checks, one made payable to Bobbie Jo Ayala and her attorney of record Thomas Gniatkowski in the amount of \$525,000, and one made payable to Alvord Unified School District in the amount of \$25,000. This constitutes the complete and final settlement of the personal injury claim of Bobbie Jo Ayala et al. against the City of San Diego, its agents and employees, as a result of an incident, which occurred on January 18, 2002.

Aud. Cert. 2500069 and 2500070.



ITEM-S500: Agreement to Assure Road Improvements with LNR Kearny Mesa, Inc. (LNR); and Cooperative Agreement with the State of California for Phase I of Clairemont Mesa Boulevard/State Route (SR)-163 Improvements Project.

(Kearny Mesa Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-177) ADOPTED AS RESOLUTION R-299586

Authorizing the City Manager to execute an Agreement to Assure Road Improvements with LNR (Implementation Agreement), in furtherance of LNR's obligations under the Development Agreement, under the terms and conditions set forth in the Implementation Agreement;

Authorizing the City Manager to enter into a cooperative agreement with the State of California for Phase I of the Interchange;

Authorizing the addition of CIP-52-7450, Clairemont Mesa Boulevard/SR-163 Improvements Project, to the Fiscal Year 2005 Capital Improvements Program;

Authorizing the acceptance of \$191,000 into Fund 63022, Developer Contribution, from LNR;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2005 Capital Improvements Program budget by appropriating \$191,000 from Fund No. 63022, Developer Contribution, into CIP-52-745.0, Clairemont Mesa Boulevard/SR-163 Improvements Project;

Authorizing the expenditure of an amount not to exceed \$191,000 from CIP-52-745.0, Clairemont Mesa Boulevard/SR-163 Improvements Project, for the purpose of City of San Diego to review, oversee, and coordinate with Caltrans for Phase I of the Interchange, contingent upon the City Auditor and Comptroller certifying that funds are on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

On December 2, 1997 the City entered into a Development Agreement with General Dynamics, Inc. with an amendment to the Agreement approved on October 16, 2000, both on file in the City Clerk's office. Subsequently, LNR, as the successor to General Dynamics, has assumed all the responsibility of the terms of the Development Agreement. Various provisions of the Development Agreement obligates LNR to fund, design and/or construct all or a portion of several infrastructure improvements. One of the infrastructure improvements includes the Clairemont Mesa Boulevard/SR-163 Improvement project, which is to be constructed in two phases. Phase I consists of bridge widening and ramp realignment on the eastern side of the Interchange. Phase II consists of ramp realignment on the western side. In accordance with the Development Agreement, LNR's obligations are limited to Phase I only.

These actions would facilitate the design of the project and provide funding (Letter of Credit) from LNR to construct Phase I and fulfills one of LNR's obligations specified in the Development Agreement. In addition, to coordinate the design of the project with the State of California and pursuant to State and Highway Code Section 130, the State of California and City of San Diego are authorized to enter into a cooperative agreement. The cooperative agreement outlines the City of San Diego responsibilities in the development of the engineering plans, specifications, estimates and the State of California oversight of the environmental, design and right of way activities.

Upon the completion of the design of Phase I, Council would be forwarded additional resolutions to approve the construction of Phase 1.

FISCAL IMPACT:

The total cost of Phase I is estimated at \$10,900,000 and is assured by LNR through the letter of credit. An amount not to exceed \$191,000, is being provided by LNR per the terms of the agreement, for City of San Diego staff charges of the review, oversight and coordination with Caltrans for Phase 1.

Mendes/Boekamp/DZ

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:21 a.m. – 11:22 a.m.)

MOTION BY FRYE TO ADOPT. Second by Zucchet. Passed by the following vote:
Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea,
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 12:12 p.m. in honor of the memory of:

Council Member Charles L. Lewis as requested by Mayor Murphy and Council Member
Inzunza.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 10:13 a.m. – 10:50 a.m.; 12:12 p.m.)